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Letter dated 17 August 2011 from the Chair of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the Secretary-General

I have the honour to refer to Security Council resolution 1963 (2010) and to submit to the Security Council, for its consideration, the updated global survey of the implementation of Security Council resolution 1373 (2001) (see annex).

The survey was prepared by the Counter-Terrorism Committee Executive Directorate on the basis of information available as at May 2011. It provides an assessment of the implementation of resolution 1373 (2001) in regions and subregions, and draws conclusions about progress in the implementation of the resolution in key thematic areas.

In the survey, the evolution of risks and threats and the impact of implementation are assessed. Gaps in the implementation of the resolution are identified and new practical ways to implement the resolution are proposed.

I should be grateful if the present letter and its annex could be circulated as a document of the Security Council.

(*Signed*) H. S. **Puri**
Chair
Security Council Committee established pursuant to resolution 1373 (2001)
concerning counter-terrorism and President of the Security Council

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Annex

Global survey of the implementation of Security Council resolution 1373 (2001) by Member States

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Abbreviations

ASEAN	Association of Southeast Asian Nations
ASEANAPOL	ASEAN Association of Heads of Police
CIS	Commonwealth of Independent States
CODEXTER	Council of Europe Committee of Experts on Terrorism
CSTO	Collective Security Treaty Organization
ECCAS	Economic Community of Central African States
ECOWAS	Economic Community of West African States
Eurojust	European Union Judicial Cooperation Unit
Europol	European Police Office
Frontex	European Agency for the Management of Operational Cooperation at the External Borders of Member States
GCC	Gulf Cooperation Council
ICAO	International Civil Aviation Organization
IGAD	Intergovernmental Authority on Development
ILO	International Labour Organization
IMF	International Monetary Fund
IMO	International Maritime Organization
INTERPOL	International Criminal Police Organization
ISPS Code	International Ship and Port Facility Security Code of the 1974 Convention on Safety of Life at Sea ("SOLAS") Convention
MOWCA	Maritime Organization of Western and Central Africa
NATO	North Atlantic Treaty Organization
OAS	Organization of American States
OSCE	Organization for Security and Cooperation in Europe
PIANGO	Pacific Islands Association of Non-Governmental Organizations
SAARC	South Asian Association for Regional Cooperation
SADC	Southern African Development Community
SOLAS	Convention on Safety of Life at Sea ("SOLAS"), 1974
UNHCR	Office of the United Nations High Commissioner for Refugees
USAP	Universal Security Audit Programme of ICAO
WAEMU	West African Economic and Monetary Union
WCO	World Customs Organization
WCO SAFE	WCO Framework of Standards to Secure and Facilitate Global Trade

I. Introduction

1. This present global survey of the implementation of Security Council resolution 1373 (2001) by Member States was prepared by the Counter-Terrorism Committee Executive Directorate, pursuant to the request of the Security Council in its resolution 1963 (2010), that the Committee Executive Directorate update the previous survey, issued in November 2009 (S/2009/620).

2. The Council also stated in its resolution 1963 (2010) its intention to convene, on 28 September 2011, a special meeting of the Counter-Terrorism Committee, open to the wider United Nations membership, to commemorate the tenth anniversary of the adoption of resolution 1373 (2001). Linking the present survey to the discussions to be held at that meeting, the Council requested that it be prepared by 30 June 2011.

3. The Council further requested that, in addition to recording the state of implementation of resolution 1373 (2001), the survey should also assess the evolution of risks and threats, region by region; identify gaps in implementation; and propose ways to address those gaps.

4. The survey relies on data compiled on the basis of information and updates provided by Member States; reports on country visits (in the case of the more than 60 States visited by the Committee); regional workshops; and information provided by international, regional and subregional organizations. The data are also recorded in the preliminary implementation assessments prepared by the Committee Executive Directorate for all 192 Member States. As with the previous versions, the present survey was prepared by the experts of the Committee Executive Directorate, based on their professional judgement of the information available as at April 2011.

5. The survey focuses on the major thematic areas addressed by the resolution, notably: counter-terrorism legislation, the counter-financing of terrorism, law enforcement, border control and international cooperation. It also takes into account the protection of human rights, as relevant to the requirements of the resolution. The sections on law enforcement and border control in each region have generally been expanded from the 2009 survey, as experts have identified additional criteria by which to assess progress in these areas.

6. Section II of the survey provides an assessment of the implementation of resolution 1373 (2001), broken down by region and subregion, as in the previous surveys. The regional and subregional divisions used for the survey do not necessarily reflect the economical and political groupings used by the United Nations or other international or regional organizations. Section II also provides an overview of the progress achieved, identifies regional strengths and vulnerabilities, and suggests areas where groups of States facing particular implementation difficulties might benefit from adopting a regional or subregional approach. This section of the survey includes some references to specific States that have made notable progress in certain areas. However, the fact that other States are not mentioned should not be understood to reflect negatively on their implementation.

7. Section III provides the general standards and recommended practices that should be in place to give effect to the provisions of the resolution and presents general global trends in implementation of the resolution in key thematic areas. This thematic part might be more useful to the general reader, as it provides a more

holistic picture of how the international community, in the broadest sense, has progressed in dealing with the challenge of terrorism since the adoption of the resolution.

8. At the conclusion of each section, there are three priority recommendations for practical steps that Member States and the Committee and its Executive Directorate could take to strengthen implementation of the resolution in each subregion or thematic area. It is hoped that these recommendations will also be useful for other international organizations and bilateral donors working in the counter-terrorism field.

9. A list of key counter-terrorism instruments is contained in the annex to the survey.

General observations

10. Security Council resolution 1373 (2001) fully retains its topicality and remains a key United Nations document in the field of counter-terrorism. In the 10 years since the adoption of resolution 1373 (2001), much progress has been made in this global effort. The resolution has brought increased solidarity and intensified dialogue among Member States concerning the threat posed by international terrorism and the means to confront it effectively. This positive trend has also benefited from the work of the other Security Council subsidiary bodies concerned with terrorism, as well as the adoption, in 2006, of the United Nations Global Counter-Terrorism Strategy by the General Assembly (resolution 60/288), and the related work of the Counter-Terrorism Implementation Task Force.

11. As assessed by the most easily quantifiable measure — the rate of ratification of the international counter-terrorism instruments since the resolution's adoption — Member States have clearly demonstrated increased political commitment to international cooperation. For example: whereas on 28 September 2001 a total of 50 States had signed the 1999 International Convention for the Suppression of the Financing of Terrorism (hereinafter referred to as the Terrorist Financing Convention), and 4 had become States parties, by the end of 2001, an additional 82 States had signed the Convention, and 12 more had become States parties. As at 1 May 2011, the total number of States parties to the Terrorist Financing Convention stood at 173. To give another example: whereas on 28 September 2001 the number of States parties to the 1997 International Convention for the Suppression of Terrorist Bombings was 28, by 1 May 2011, that number had increased to 164.

12. Positive developments are also evident in other areas. Most States have now taken steps to criminalize terrorist acts in their domestic laws and regulations, in accordance with their obligations under the resolution and the relevant international instruments. Financial intelligence units and other mechanisms have been set up in many States to guard more effectively against terrorist financing. New systems of border security, such as enhanced cargo screening and the introduction in most States of machine-readable travel documents, as called for by the International Civil Aviation Organization (ICAO), have significantly complicated terrorists' transnational activities. There is better information exchange between States, and it appears that mutual legal assistance now occurs more systematically. Many of these advances are due to the continuing commitment of bilateral donors, United Nations system agencies and others to providing technical assistance relevant to States' implementation of the resolution.

13. The progress of the last 10 years has resulted in a weakening of certain terrorist networks that have plagued the international community since September 2001. In some States, Al-Qaida has been driven further underground and some of its members successfully either prosecuted, convicted and sentenced or made the subjects of criminal proceedings. International cooperation has also aided prosecutions targeting other terrorist groups active in different regions of the world, including those on the Consolidated List of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and Associated Individuals and Entities. A heightened level of vigilance and effective police and intelligence work worldwide have thwarted a number of terrorist plots before they could be carried out and, in consequence, undoubtedly saved many lives.

14. Nonetheless, the threat of terrorism remains high in many parts of the world. As some terrorist networks have been disrupted, others have altered their operational methods. For example, as the Monitoring Team of the Al-Qaida and Taliban Sanctions Committee has observed, Al-Qaida in the Islamic Maghreb has raised a considerable amount of money from kidnappings for ransom and also benefits from the growing use of smuggling routes in the Sahel by drug producers in South America (see S/2011/245). Some groups in South and Central Asia are also reported to be turning increasingly to arms and narcotics smuggling as revenue sources. Terrorist groups are also exploiting continued and (in some cases) increased instability in certain States, and this has enabled them to operate with less fear of disruption by Government authorities. Moreover, notwithstanding the death of Osama Bin Laden and the considerable disruption this will likely cause to the leadership of Al-Qaida, the organization remains a potent and dangerous force. This is due in part to its alliances with groups such as the Al-Qaida in the Islamic Maghreb and Al-Qaida in the Arabian Peninsula and to its continued capacity to inspire other groups and individuals to plan attacks in all regions of the world.

15. A particular threat has arisen through increased use by terrorist groups and individuals of new information and communication technologies for recruitment, incitement and fund-raising, often across international borders. The Internet has proven to be a valuable terrorist tool because of the considerable technical and legal challenges involved in monitoring and regulating its content. A site that is blocked or disabled for allegedly illegal content can often be reactivated elsewhere on the Web within hours. The regulation of the Internet and other new communication technologies is necessarily constrained by the obligation of States to respect the right to freedom of expression, a cornerstone of international human rights law. However, resolution 1373 (2001) requires States to suppress terrorist recruitment, and the Security Council, in its resolution 1624 (2005), calls upon States to prohibit and prevent incitement to commit acts of terrorism. These issues will continue to pose challenges in the years to come.

16. As the present survey demonstrates, gaps in international counter-terrorism efforts also remain in other areas of States' implementation of resolution 1373 (2001). Full implementation of the obligation to bring terrorists to justice under the principle *aut dedere aut judicare* (extradite or prosecute) requires the adoption of implementing legislation in more States and a strengthened commitment to prosecute terrorism cases where extradition is not feasible. Some States need to strengthen their judicial systems further in order to conduct terrorism prosecutions in full accordance with the rule of law. The problem of securing porous land and sea

borders remains a major challenge for many States, in large part due to resource constraints.

17. Challenges also remain in the area of countering terrorist financing, including the need to monitor more effectively new payment methods, informal money and value transfer systems and the use of cash couriers. There is also a need to guard more effectively against the misuse of non-profit organizations while ensuring that regulation is proportionate to the risk and not arbitrarily applied.

18. In virtually all regions, States continue to face challenges in ensuring the compliance of their counter-terrorism measures with all their obligations under international law, including international human rights, refugee and humanitarian law. Finally, many States face a range of other issues — such as competing developmental priorities, limited training opportunities and continuing pressure on Government budgets — that affect their level of progress achieved in implementing the resolution.

19. In the 10 years since the adoption of resolution 1373 (2001), there has been increased recognition that, while law enforcement measures are at the heart of the resolution, effective responses will necessarily include other aspects of legal and social policy. Terrorism must be understood first as a crime, unjustifiable under any circumstances. However, it is also a manifestation of grievances, articulated in an inhuman, abhorrent and unacceptable manner. It must be confronted with resolute determination, not only by security bodies, but also by societies at large, through enhanced dialogue and broadened understanding among civilizations, awareness-raising of the suffering of victims of terrorism, and policies undertaken in many fields, including development, education, social integration and human rights. Prevention is critical, as recognized by the recent special meeting of the Counter-Terrorism Committee with international, regional, and subregional organizations, held in cooperation with the Council of Europe in Strasbourg, France, in April 2011.

20. In this respect, it is significant that the Security Council, in its resolution 1963 (2010), encourages the Counter-Terrorism Committee Executive Directorate to discuss with Member States, with their consent, the possible development of comprehensive and integrated national counter-terrorism strategies that include attention to the factors leading to terrorist activities, in accordance with their obligations pursuant to international law. Also relevant is the emphasis placed by the Council in resolution 1963 (2010) on the role that regional and subregional organizations can play in countering terrorism, in particular by enhancing the capacities of Member States fully to implement resolution 1373 (2001) and by facilitating the provision of technical assistance. Both these approaches will be essential to confronting the terrorism challenge.

21. Although progress has certainly been made over the past decade, it is clear that a great deal remains to be done to make Member States and regions safe from the threat of terrorism.

II. Assessment by region

A. Africa

North Africa (Algeria, Egypt, Libyan Arab Jamahiriya, Mauritania, Morocco, Sudan and Tunisia)

The Committee has visited five States of this subregion.

General comments

22. North Africa has suffered more than other African subregions from terrorism and has adopted a variety of approaches, both legal and operational, in response. All North African States have adopted legislative counter-terrorism measures. However, these measures often lack the precise definition of criminal behaviour set forth in the international counter-terrorism instruments. This might raise concerns in relation to human rights and the rule of law. Counter-terrorism expertise has been acquired and innovative approaches adopted, whether to prevent further recruitment of potential terrorists or to counter radicalization that may lead to violence.

23. Recent political and security developments in North Africa may lead some States to revisit current strategies, especially in order to ensure adherence to the rule of law and to address human rights concerns while also maintaining the region's capacity to counter serious offences such as terrorism.

24. As a general comment, law enforcement measures in the subregion could be better coordinated, particularly at the operational level, and should be subject to judicial oversight. Lengthy maritime and open land borders continue to pose challenges to border control.

Areas of assessment

Legislation

25. All visited States have introduced legislation giving their judicial, prosecutorial and law enforcement authorities the competences needed to counter terrorism. Penal codes, supplemented by special legislation, are primarily relied upon in bringing alleged perpetrators of terrorist offences before the courts. Terrorism-related prosecutions have been undertaken successfully in several States. However, some States continue to use an overly broad definition of terrorism and would be advised to codify terrorist offences into their domestic criminal law in accordance with the international counter-terrorism instruments. Such an approach is being taken by several visited States, which are introducing new legislation in order to strengthen compliance with their obligations under international human rights law. For example, in 2009, Tunisia amended Act No. 2003-75 criminalizing incitement to commit terrorist acts in order to separate "incitement to hatred" and "religious radicalization" from terrorist offences. Algeria recently lifted its state of emergency. Visited States have criminalized recruitment to commit terrorist acts and the provision of safe haven for terrorists, and have introduced operational measures to give effect to this. All visited States criminalize the use of their territories to commit or prepare terrorist acts against citizens, installations and diplomatic

representatives of other States. They also consider any terrorist acts against these targets as acts against their own national security. However, States should criminalize acts committed against another State in the same way. In short, there is a need to domesticate the principle *aut dedere aut judicare* (extradite or prosecute), even when there is no immediate link with that State.

Counter-financing of terrorism

26. States of the subregion have made progress since the previous survey, and all have anti-money-laundering laws in place. Tunisia amended its anti-money-laundering law in August 2009 and Morocco is currently revising its anti-money-laundering law. Although all States have established financial intelligence units, only Egypt has a unit that is fully operational and a member of the Egmont Group. The financial intelligence unit of Morocco received and processed its first suspicious transactions reports in October 2009. All States are parties to the 1999 Terrorist Financing Convention, but only some have criminalized the offence in accordance with the Convention. This may undermine their ability to cooperate effectively at the international level. Tunisia and the Libyan Arab Jamahiriya have (in 2009 and 2010, respectively) extended customer due diligence, record-keeping and suspicious-transaction-reporting obligations to other designated non-financial businesses and professions, thereby enlarging the scope of anti-money-laundering and counter-financing of terrorism obligations. Asset-freezing provisions, although not fully in line with the requirements of the resolution, have been enacted in most States, and terrorist assets have been frozen successfully in some instances. Laws are in place to regulate charitable and non-profit organizations, but not all States have reviewed their legal frameworks to prevent the non-profit sector from being misused for the purpose of terrorist financing. Since the previous survey, Tunisia has amended its anti-money-laundering law to strengthen its prudential rules governing donations. Measures taken to control cross-border movement of currency are mostly designed to address exchange control concerns, not for anti-money-laundering and counter-financing of terrorism purposes.

Law enforcement

27. All States rely on internal regulations, issued by the Ministry of the Interior or other relevant ministries as a supplement to criminal codes, to regulate the work of their law enforcement agencies. Visited States have established specialized counter-terrorism units and institutional structures, and have the capacity to conduct investigations and make use of relatively advanced technologies. In visited States, there is a good level of inter-agency cooperation at the policy level, and this "cascades" down to operational levels. However, internal coordination, particularly for the exchange of information, is primarily conducted through meetings and personal contacts. There is a need to employ additional technological means to allow the exchange of real-time operational information. Apart from the regular meetings of the Council of Arab Ministers of the Interior, no regular and institutionalized exchange of operational information occurs at the subregional level. The establishment of a subregional office of the International Criminal Police Organization (INTERPOL) for North Africa would help improve cooperation among States of the subregion. Furthermore, there is a need for all States to strengthen judicial oversight of law enforcement activities in order to ensure respect for human rights in the investigation of terrorism-related cases and to prevent law enforcement

officers acting with impunity. Recent developments in several States of the subregion were accompanied by changes to security structures. For example, both Egypt and Tunisia have dismantled their State Security Services, which had been accused of human rights violations in the context of countering terrorism. All States have taken steps to regulate the production, sale and transfer of arms and explosives. Five States have ratified the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition (hereinafter referred to as the Firearms Protocol) supplementing the United Nations Convention against Transnational Organized Crime.

Border control

28. Visited States have introduced measures to screen travellers and detect forged travel documents, including at international airports. Manual entry of information is still the practice at some border points. The security and integrity of the procedures for issuing identity papers and travel documents could be improved in several States. Most States of the subregion met the deadline of April 2010 set by ICAO for the introduction of machine-readable travel documents. All visited States use INTERPOL databases, and some are taking steps to extend them to border posts. A few States (e.g., Algeria, Egypt and Tunisia) have practical measures in place to detect incoming as well as outgoing cross-border transportation of currency and bearer negotiable instruments. Such measures include a declaration form, the obligation to report bearer negotiable instruments, and authorized seizure of cash by customs officials.

29. All but one State are parties to the Convention relating to the Status of Refugees, 1951 (hereinafter referred to as the Refugee Convention) and its Protocol of 1967. Nonetheless, concerns have been raised by United Nations human rights mechanisms over the failure to respect fully the principle of non-refoulement. Measures to prevent and suppress the movement of terrorists across borders could be enhanced in all States, particularly on the southern borders. Algeria has sought to address this issue, adding a fourth brigade of border guards at Tamanrasset in 2009. Six States are parties to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (hereinafter referred to as the Trafficking in Persons Protocol) to the Convention against Transnational Organized Crime and five States parties to the Protocol against the Smuggling of Migrants by Land, Sea and Air (hereinafter referred to as the Smuggling of Migrants Protocol). All but one has indicated an intention to implement the World Customs Organization (WCO) SAFE Framework of Standards to Secure and Facilitate Global Trade and initiated that process. The Council of Maghreb Customs Cooperation was launched in April 2010, with a training centre established in Casablanca, the location of the Regional Intelligence and Liaison Office of WCO.

30. Four States have implemented the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (2001) (hereinafter referred to as the Programme of Action on Small Arms). In 2010, all States of the subregion, except one, submitted an additional report to the United Nations on their implementation of the Programme of Action. With respect to maritime security, all visited States have implemented the International Maritime Organization (IMO) International Ship and Port Facility Security (ISPS) Code (an amendment to the Safety of Life at Sea "SOLAS" Convention of 1974). However, there are concerns regarding the irregularity of updates on implementation and

testing of security measures and the observed gaps in the implementation of security practices at port facilities in visited States. Annex 17 and related security provisions of annex 9 to the 1944 Convention on International Civil Aviation (Chicago Convention) continue to be implemented in all States. In the Libyan Arab Jamahiriya, the National Civil Aviation Security Programme was approved on 26 October 2009. Since the previous survey, Algeria, the Libyan Arab Jamahiriya, Mauritania and Morocco have received second-cycle ICAO Universal Security Audit Programme (USAP) missions.

International cooperation

31. The level of ratification of the international counter-terrorism instruments in the subregion is relatively high. In 2010, Algeria, Morocco and Tunisia became parties to one or more additional international instruments, with Algeria becoming the first State of the subregion to ratify all the instruments. However, as noted above, several States rely upon overly broad legal definitions of terrorism, which could present difficulties in respect of international cooperation. Enactment of laws on mutual legal assistance and extradition is still needed in almost all States. In general, States cooperate within the framework of the relevant institutions of the League of Arab States, its Convention (which has a high rate of ratification in the subregion) and bilateral treaties. There is a need to improve the exchange of information and to enhance cooperation with States of other regions.

Recommendations for practical ways to implement the resolution

32. **States of this subregion should:**

(a) **Strengthen their legal framework and take steps to further protect their non-profit organizations, including by reviewing the adequacy of their legal frameworks, and to enhance the capacity of their financial intelligence units;**

(b) **Continue enhancing border security at entry points and along open borders in order to prevent and suppress the movement across borders of terrorist cargo and arms/explosives, as well as currency and bearer negotiable instruments, and implement the international best codes and standards established by specialized agencies such as ICAO, IMO and WCO;**

(c) **Strengthen judicial oversight programmes of police activities and promote continued dialogue with relevant international and regional mechanisms with a view to ensuring compliance with international human rights obligations in the context of counter-terrorism.**

33. **The Counter-Terrorism Committee and its Executive Directorate should:**

(a) **Engage more actively with the relevant regional organizations (e.g., the African Centre for Study and Research on Terrorism, the African Union and the League of Arab States), focusing on activities geared towards overcoming challenges and improving implementation of resolution 1373 (2001);**

(b) **Continue building upon the close dialogue established with visited States, particularly in the light of current developments in the subregion;**

(c) **Engage more actively with the States of the subregion, including by conducting follow-up visits and taking the opportunity, when passing through the subregion, to conduct bilateral meetings with officials in the relevant State.**

East Africa
(Burundi, Comoros, Djibouti, Eritrea, Ethiopia, Kenya, Madagascar, Mozambique, Rwanda, Seychelles, Somalia, Uganda and United Republic of Tanzania)

The Committee has visited four States of this subregion.

General comments

34. The terrorist threat to the East Africa subregion remains high because of continued political instability in the Horn of Africa and the activities of various armed groups. On a positive note, in 2009, the Intergovernmental Authority on Development (IGAD) Capacity-building Programme Against Terrorism adopted conventions on extradition and mutual legal assistance that have enhanced the legal framework for cooperation in countering terrorism among Member States, thereby strengthening national and regional security.

35. The subregion faces significant border-control challenges (such as the continued threat of piracy and other crimes committed at sea) which deplete the national resources available for countering terrorism. Lengthy, and largely open, land and maritime borders continue to pose a significant challenge to national Governments. The issue of border demarcation and the disposition of border communities complicate effective border management in some parts of the subregion.

36. Counter-terrorism efforts in the subregion would be strengthened through more effective national coordination of law enforcement efforts and improved subregional information exchange.

Areas of assessment

Legislation

37. All States have some legislative measures in place, but these measures do not fully incorporate into domestic law the offences of the international counter-terrorism instruments. Of the four visited States, two have not yet adopted the draft counter-terrorism laws that have been in preparation for some years. Kenya has successfully conducted trials in relation to terrorist acts occurring on its territory, notwithstanding prosecutorial challenges. The other two States introduced counter-terrorism laws more than five years ago, but report no related investigations or prosecutions. In view of the vulnerability of the subregion, there is a need for more steps to criminalize recruitment. Not all States have provided sufficient information on their jurisdiction over terrorist acts, although almost all have introduced partial measures granting them jurisdiction over offences committed on their territories. The principle *aut dedere aut judicare* is not applied throughout the subregion because States have not incorporated it explicitly into domestic law.

Counter-financing of terrorism

38. Nine States are parties to the Terrorist Financing Convention. A minority of States have adopted appropriate legislation to criminalize the financing of terrorism, while the others have at least partial measures in place. A majority of States have anti-money-laundering laws in place, but few have the legislative and operational

measures to freeze funds without delay. Establishing regular onsite programmes for the inspection of reporting entities, in order to ensure compliance with anti-money-laundering/counter-financing of terrorism requirements, poses a significant challenge to some States, as it is a resource-intensive exercise. Several States have established financial intelligence units, but not yet made them operational. A minority of States have introduced reporting obligations for terrorist financing, but suspicious transaction reports are rare. Eight States of the subregion have been subject to mutual evaluation reports conducted either by the Eastern and Southern Africa Anti-Money Laundering Group, the International Monetary Fund (IMF) or the World Bank, but only five are members of the Group. All States except one have legislation in place to regulate non-profit organizations, but only one has introduced, and effectively implements, legal provisions to prevent terrorist financing through non-profit organizations. No State has reviewed its non-profit sector or conducted a risk assessment for terrorist financing. The Committee's visits have demonstrated that States of the region (primarily cash-based economies) need to strengthen control of cash couriers by introducing threshold requirements, where they do not already exist, for the movement of cash and bearer negotiable instruments.

Law enforcement

39. The vast majority of States rely primarily on their criminal procedure codes to regulate the work of their law enforcement agencies. Almost all States lack some capacity to conduct effective investigations or utilize advanced tools such as databases and forensics. Counter-terrorism and security structures for the purpose of internal coordination and the study of terrorism exist in some States. Kenya has a National Counter-Terrorism Centre; the United Republic of Tanzania, a National Counter-Terrorism Centre; and Uganda, a National Security Council. Internal coordination would be enhanced by "cascading" that policy-level coordination down to the operational level, if necessary. The exchange of information would benefit from technological improvements (e.g., by establishing databases and linking them to all relevant law enforcement agencies). Subregional cooperation could be enhanced further through existing regional bodies such as the Eastern Africa Police Chiefs Cooperation Organization, as well as the INTERPOL regional office in Nairobi. There is inadequate oversight of law enforcement by competent judicial and other authorities aimed at ensuring the compliance of counter-terrorism measures with the rule of law and States' international human rights obligations. Almost half the States of the subregion have taken steps to regulate the production, sale and transfer of arms and explosives, and six have ratified the Firearms Protocol. The remainder need to improve their legislation in this regard. In a majority of visited States, there is a need to enhance crisis-management plans to secure evidence, prevent casualties of secondary bombs, and ensure adequate evacuation in the event of a major terrorist attack.

Border control

40. States of the subregion routinely check identity travel documents manually. Little information has been provided concerning "breeder" documents or the integrity of the process for issuing identity cards and passports. All States of the subregion met the ICAO deadline of April 2010 for the introduction of machine-readable travel documents. However, readers for screening such travel documents are still not widely available in the subregion. Although States of the subregion have

set up INTERPOL National Central Bureaux, their use of INTERPOL services is hampered by a lack of capacity and the failure to extend access to border posts. The Committee's visits to the region have shown that States need to increase their implementation of legislation to prevent the illicit cross-border movement of cash and bearer negotiable instruments by developing risk indicators and building capacities in detection methodologies.

41. Almost all States are parties to the 1951 Refugee Convention, but United Nations human rights mechanisms have raised concerns over the inadequate legal frameworks established by some States to guard against refoulement. Migrant processing procedures/systems are not automated at all ports of entry, and there is very limited capacity to monitor watch lists. Where it is available, equipment to detect forgeries, communicate, and capture and store traveller data is in need of acquisition or upgrade. Seven States are parties to both the Trafficking in Persons and the Smuggling of Migrants Protocols, and monitoring the movement of cargo in the region also represents a significant challenge. All but two States have signed the Letter of Intent to implement the WCO SAFE Framework of Standards, but States need to do more to secure the trade chain, build capacity in risk management, and encourage agency coordination and information exchange at border posts.

42. Over the past two years, Eritrea, Kenya, Uganda and the United Republic of Tanzania have submitted reports to the Programme of Action on Small Arms. All States, except the landlocked States, have designated a national authority for port and ship security and have security plans in place in accordance with the ISPS Code. Measures that need further enhancement in this regard include implementing other aspects of the 1974 SOLAS Convention implementing the Long-Range Identification and Tracking System, and registering all seafarers' and ships' crews and issuing secured identity documents in accordance with International Labour Organization (ILO) standards.

43. Laws to control arms and explosives contain no clear provisions on arms brokering and brokers or transit of weapons. Porous borders continue to pose challenges to effective border control, and more should be done to develop regional approaches and best practices (e.g., community policing) to address those challenges. Kenya, Uganda and the United Republic of Tanzania recognize that engagement with border communities is important in this respect, and engage in regular contact with community leaders on border issues. Since publication of the previous survey, four States have received second-cycle ICAO USAP missions and two have received first-cycle follow-up missions.

International cooperation

44. The level of ratification of the international instruments has remained unchanged since 2009 and varies widely. One State is a party to 14 instruments, while one of its neighbours is a party to none. Very few States have adopted laws on extradition and mutual legal assistance. This limits their ability to respond positively to related requests from other States. As noted in paragraph 34 above, in 2009, the Ministers of Justice of the member States of IGAD agreed on a draft convention on extradition and a convention on mutual legal assistance which, when fully implemented, will enhance cooperation in criminal matters among a number of East African States.

Recommendations for practical ways to implement the resolution

45. States of the subregion should:

(a) Adopt and implement national counter-terrorism legal frameworks that are comprehensive and coherent and include all the terrorist offences set forth in the international counter-terrorism instruments, while also conforming to international human rights standards;

(b) Enhance their internal coordination at the policy and operational levels;

(c) Strengthen efforts to enhance border security at entry points and along open borders, including through the development of regional approaches and best practices, such as community policing, in order to prevent and suppress the movement of terrorists across borders, and also prevent and suppress the physical cross-border transportation of currency and bearer negotiable instruments, cargo and arms/explosives, in accordance with international best codes and practices.

46. The Counter-Terrorism Committee and its Executive Directorate should:

(a) Engage more actively with the relevant regional organizations (African Union, East African Community, Eastern Africa Police Chiefs Cooperation Organization, Eastern and Southern African Anti-money-laundering Group and IGAD Capacity Building Program Against Terrorism and focus on activities geared towards overcoming deficiencies and improving implementation of the resolution;

(b) Continue building upon the close dialogue established with States of the subregion, including through United Nations offices that deal with particular States facing threats and challenges which could impact their capacity and the capacity of other States of the subregion to deal with terrorism;

(c) Continue to engage proactively with the subregion, including through the facilitation of technical assistance, the organization of workshops and other subregional events (such as the workshop on border management held in Nairobi in July 2010), and follow-up on initiatives to bring practitioners and operational officers together.

Southern Africa (Angola, Botswana, Lesotho, Malawi, Mauritius, Namibia, South Africa, Zambia, Zimbabwe and Swaziland)

The Committee has visited one State of this subregion.

General comments

47. Although Southern African States have made a commitment to countering terrorism, many lack the technical and financial resources required to fully implement resolution 1373 (2001). Southern Africa's natural resources, cross-border crime and the availability of small arms in the context of past conflicts make the

subregion potentially vulnerable to money-launderers, international criminals, drug dealers and terrorist groups.

48. Southern African Member States have benefited from the initiatives of the Southern African Regional Police Chiefs Cooperation Organization, which focuses on preventing and fighting cross-border crime, including arms and weapons trafficking (a significant issue for the subregion). The Eastern and Southern African Anti-money-laundering Group plays a key role in the subregion, as it is responsible for evaluating anti-money-laundering and counter-financing of terrorism measures introduced by its member States and for developing subregional policies and programmes aimed at achieving an understanding of subregional trends in money-laundering and terrorist financing and developing actions and solutions to counter them. The efforts of the Southern African Development Community (SADC) to develop a Regional Early Warning Centre are encouraging.

49. Several States find it difficult to meet their reporting and implementation obligations, perhaps because of their need to address other pressing concerns. The rate of ratification of the international instruments varies considerably. Several States have ratified over 10 instruments but, with the exception of two States, all need to take further action to fully incorporate the instruments into domestic law.

50. The predominance of the informal economy of the subregion makes the tracking of financial transactions difficult. The cash-based economies of States of the subregion are vulnerable to terrorist financing and money-laundering. In order to reduce this risk, States should be encouraged to continue their efforts to promote financial inclusion, establish financial intelligence units and make them operational, and review the non-profit sector to ensure that it is not misused for illegitimate purposes such as terrorist financing. Because the physical cross-border transportation of currency and bearer negotiable instruments also remains vulnerable to terrorist financing, there is a need to enhance border control through the introduction of declaration forms.

51. The cross-border movement and availability of small arms continues to require a coordinated response by all States of the subregion. As in other parts of Africa, the subregion's lengthy maritime and land borders pose challenges to border control.

Areas of assessment

Legislation

52. Of the subregion's 10 States, only Mauritius and South Africa have introduced comprehensive counter-terrorism legislation and only South Africa has had experience with bringing prosecutions within that framework. United Nations human rights mechanisms have expressed concern over the improper application of counter-terrorism measures in two States. Four States have adequately criminalized terrorist recruitment, while the remainder have either partially done so, or have not done so at all. Four States have introduced adequate legal measures to criminalize the provision of safe haven; four have partially done so; and two have not provided the relevant information. Five States have legislative measures prohibiting the use of their territories to commit or prepare terrorist acts against other States or their citizens. The legal challenges experienced by most States of this subregion demonstrate the continued need to encourage States to fully incorporate the international counter-terrorism instruments into their domestic legislation and to

develop the institutional capacity of the prosecution and judiciary with respect to counter-terrorism cases.

Counter-financing of terrorism

53. Six States of the subregion are parties to the Terrorist Financing Convention. Four States have adequately criminalized the financing of terrorism, while three have not done so at all. In July 2010, Angola introduced legislation establishing preventive and restrictive measures against money-laundering and terrorist financing. On 15 April 2010, Angola submitted its application to join the Eastern and Southern African Anti-money-laundering Group. The majority of States have anti-money-laundering legislation in place, and four of those States include terrorist financing as a predicate offence. Most States continue to experience challenges with respect to legislative and operational measures for the freezing of funds without delay. Six States have some measures in place relating to reporting obligations, including for financing of terrorism, but only one has adequate measures in place. In most cases, these measures extend to banks, but it is not clear whether they cover other financial, as well as non-financial business and professions.

54. There has been progress in the adoption of measures to establish financial intelligence units. At present, four may be considered fully operational and three of these (Malawi, Mauritius and South Africa) are also members of the Egmont Group. Dissemination of suspicious transaction reports by Mauritius and South Africa has resulted in a number of investigations and to the prosecution of money-laundering cases. Six States have some legislative measures in place to regulate non-profit organizations. Only South Africa has conducted a review of its regulatory framework for non-profit organizations. However, no State has reviewed its non-profit sector or conducted a risk assessment to ensure that non-profit organizations are not misused for the purposes of terrorist financing. Six States have taken measures to control the movement of currency (declaration system). Mauritius informed the Committee that its Customs Act was amended by the Finance Act 2009 and that on 1 October 2009, it introduced a declaration system for cross-border transportation of currency, which replaced the former disclosure system. The remaining States have not provided sufficient information in this area.

Law enforcement

55. Four States have set up specialized institutional counter-terrorism structures that are managed by appropriate agencies. South Africa has adopted a comprehensive strategy for countering terrorism and has set up adequate levels of cooperation, information-sharing and coordination of action among its various agencies. In 2010, Mauritius set up the Counter-Terrorism Unit in the Prime Minister's Office, overseen by the National Counter-Terrorism Committee. All States are members of the Southern African Regional Police Chiefs Cooperation Organization and are thus able to share early-warning information. Member States have conducted specific operations in respect of crimes involving stolen motor vehicles, arms and ammunition trafficking, and drug smuggling and trafficking. However, only in the visited State was it possible to observe the successful efforts of the local INTERPOL National Central Bureau to connect relevant law enforcement agencies to INTERPOL information sources. In July 2010, SADC established its Regional Early Warning Centre to improve communications among its members. The Centre is composed of representatives of the Ministry of External Relations, the

armed forces, the police and the State security and intelligence agencies. It will help SADC member States detect any signs of crises, conflicts or natural disasters. Two States have demonstrated effective oversight of law enforcement activities through the judicial process.

56. All States have taken some steps to regulate the production, sale and transfer of arms and explosives. Yet, with the exception of one State, their legislation to control arms and explosives contains no clear provisions on arms brokering and brokers, transit of weapons or Security Council arms embargoes. Only five States have ratified the Firearms Protocol. The SADC Protocol on the Control of Firearms, Ammunition and Other Related Materials is binding upon SADC member States. The Southern African Regional Police Chiefs Cooperation Organization has been instrumental in the implementation of that Protocol and has made a number of proposals in this regard, including harmonization of legislation, capacity-building, joint cross-border operations, disarmament, demobilization, reintegration and development and destruction. It has also developed standard operating procedures for the implementation of the SADC Protocol and, together with a number of member States, has developed initiatives relating to the creation of a unified database and to the marking of firearms. South Africa has adopted a five-pillar strategy for the management of firearms and has taken part in subregional efforts to eliminate firearms.

Border control

57. Several States are taking steps to computerize their immigration and citizenship processes. With the exception of South Africa, entry/exit systems for checking passengers at most border points remain manual. South Africa's land crossings are linked to a central database, and all entry points have access to a central automated system that captures all travellers' details and contains warning lists that are regularly updated with information received from law enforcement agencies. Mauritius introduced a new border-control system in 2009, with passenger data being recorded in a database immediately upon arrival or departure at the international airport. This information is available online to authorized persons. There is limited available information about the effectiveness of customs in preventing the illegal physical cross-border transportation of currency and bearer negotiable instruments in States not visited by the Committee. However, the Counter-Terrorism Committee Executive Directorate was able to gain insight into South Africa's application of risk-assessment techniques and its increasing success in seizing undeclared bulk cash.

58. All States of the subregion have ratified the 1951 Refugee Convention. Mixed migration movements, especially from the Horn of Africa and Great Lakes regions, pose challenges within Southern Africa and place pressure on the limited humanitarian resources available. All States of the subregion met the ICAO deadline of April 2010 for the introduction of machine-readable travel documents. Two States of the subregion plan to introduce e-passports. Four States have reported their national requirements for the issuance of national identity documents, and a further two States have proposed legislation for national identity cards. The issue of forged and fraudulently obtained documentation is being addressed through a combination of improved controls and awareness-raising. Seven States are parties to both the Trafficking in Persons Protocol and Smuggling of Migrants Protocol. All States

have signed the Letter of Intent to implement the WCO SAFE Framework of Standards.

59. All States have reported on their implementation of the Programme of Action on Small Arms, but in general, States of the subregion need to reinforce their programmes and cooperation in this regard and implement the latest international best practices and arms control standards. The cross-border movement and availability of small arms in the Southern Africa subregion remains an issue of concern. The ISPS Code is in force and applicable in four States, three of which have designated a national authority for port and ship security and two of which have security plans in place for all ports. Only in the visited State (South Africa) was it possible to assess implementation of other aspects of the ISPS Code (implementation was of an acceptable standard). Annex 17 and related security provisions of annex 9 of the Convention on International Civil Aviation have been partially implemented in four States. Namibia and Zimbabwe have received second-cycle ICAO USAP missions, and Angola has received a first-cycle follow-up mission.

International cooperation

60. The rate of ratification of the international counter-terrorism instruments varies greatly. South Africa has ratified 13 of the instruments, while four other States (Botswana, Lesotho, Mauritius and Swaziland) have ratified at least 10. Three States have ratified four instruments or fewer. Since 2009, Lesotho has ratified five instruments, bringing its total to 11. Four States have introduced comprehensive domestic laws on mutual legal assistance and extradition, while the remainder have either partially fulfilled this requirement or not done so at all. There are subregional instruments on cooperation (notably, the Southern African Regional Police Chiefs Cooperation Organization Agreement in Respect of Cooperation and Mutual Assistance in the Field of Combating Crime, 1997, the SADC Protocol on Mutual Legal Assistance in Criminal Matters and the SADC Protocol on Extradition. Much of the cooperation takes place through the Southern African Regional Police Chiefs Cooperation Organization. However, there is a lack of information on the practical aspects of cooperation on mutual legal assistance and extradition. South Africa demonstrated the ability to provide mutual legal assistance.

Recommendations for practical ways to implement the resolution

61. **States of the subregion should:**

(a) Implement the adopted national legislation on countering terrorism, while bearing in mind international human rights standards;

(b) Review their non-profit sectors in order to ensure that they are not misused for the purposes of terrorist financing, and regulate and monitor the physical cross-border transportation of currency and bearer negotiable instruments;

(c) Update national legislation on mutual legal assistance and extradition and fully implement the relevant SADC protocols on mutual legal assistance and extradition;

(d) Facilitate capacity-building on international cooperation with subregional partners.

62. **The Counter-Terrorism Committee and its Executive Directorate should:**

(a) Engage more actively with the relevant subregional organizations, including the Eastern and Southern African Anti-money-laundering Group, SADC and the Southern African Regional Police Chiefs Cooperation Organization, in order to focus on activities geared towards overcoming deficiencies and improving implementation of the resolution;

(b) Continue pursuing their proactive engagement with the subregion, including through the facilitation of technical assistance, organization of workshops and other subregional events;

(c) Facilitate capacity-building to States, in cooperation with the Eastern and Southern African Anti-money-laundering Group, to establish/strengthen financial intelligence units of the subregion and to develop the legislative and operational capacities of States to freeze funds without delay.

West and Central Africa (Benin, Burkina Faso, Cameroon, Central African Republic, Cape Verde, Chad, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Equatorial Guinea, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Sao Tome and Principe, Senegal, Sierra Leone and Togo)

The Committee has visited six States of this subregion.[1]

General comments

63. Al-Qaida in the Islamic Maghreb poses a threat to the Sahel, in particular, and to West Africa in general. This threat compounds the other criminal threats to States of the subregion (notably money-laundering, drug trafficking, illicit arms trafficking and the movement of terrorists across borders). The lack of a subregional counter-terrorism action plan hampers collective efforts to address the terrorist threat. Lengthy, inaccessible and largely open borders make effective border management extremely difficult and facilitate the activities of transnational criminal groups and terrorist groups. Central Africa also faces an increase in armed violence, criminality and acts of terrorism, including in the Gulf of Guinea.

64. The ability to prevent terrorists from organizing and moving freely across the territories of Member States of the subregion (especially in the Sahel) depends not only upon the effectiveness of bilateral and subregional cooperation but also on measures taken to put in place international best codes and practices related to law enforcement and border control and upon the effective protection and monitoring of borders, coasts and interior regions. All States have cash-based economies, and this increases the risk that terrorist financing will occur by means of physical cross-border transportation of currency and bearer negotiable instruments or by means of informal transfers of money and value through alternative remittance systems. In

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[1] West and Central Africa are two subregions. However, for the purpose of this survey, both subregions were assessed together. This does not reflect the economical and political groupings used in Africa.

addition, the subregion continues to face challenges relating to law enforcement, the rule of law and respect for human rights.

65. Since the previous survey, counter-terrorism measures taken by individual States have helped to prevent potential terrorist acts, indicating some improvement in capacity. In 2009 and 2010, several seizures of large quantities of military weapons were made in West Africa (Mali, Nigeria and Senegal). These seizures highlight the important work achieved by customs authorities in the subregion, with the support of WCO and the Counter-Terrorism Committee Executive Directorate. At the subregional level, pursuant to the first and second phases of Operation "COCAIR", all airports of Central (and East) Africa are now connected to the WCO Customs Enforcement Network database and INTERPOL databases, and customs officers and border police share information on passengers and other relevant information within the framework of joint customs/police platforms.

66. In an effort to counter the increase in crimes committed at sea, the Maritime Organization of Western and Central Africa (MOWCA), with the assistance of IMO, is enhancing cooperation among law enforcement agencies through the establishment of a network of coastguard units. In 2010, in Ghana, member States and donors reviewed the establishment of four control centres at Abidjan, Dakar, Lagos and Pointe Noire, and two subregional coordinating centres in Angola and Ghana. This coastguard network should enable the 20 States parties, from Mauritania in the north to Angola in the south, to promote and conduct joint maritime activities aimed at protecting human life, enforcing the law, improving security and protecting the environment.

Areas of assessment

Legislation

67. The six visited States have established a legislative counter-terrorism framework within which they rely primarily on penal law and criminal procedural codes. Following an investigation into a seizure of illegal arms smuggled into Nigeria in 2010, one accused was arrested and is being prosecuted. In the Niger, as in Senegal, there has been one conviction related to money-laundering. Most States still need to incorporate the offences of the international counter-terrorism instruments into domestic law. Visited States have operational measures and policies in place for the suppression of terrorist recruitment. For example, Burkina Faso attaches importance to combating violent extremism and is working to counter attempts to recruit terrorists. The provision of safe haven is mainly criminalized through "assisting" or "abetting" offences. Almost all States criminalize the use of their territories to commit or prepare terrorist acts against the citizens, installations, and diplomatic representatives of other States. National capacities to implement these measures are, however, limited in several States. Most States have not established in their legislation adequate jurisdiction for the relevant offences of the international counter-terrorism instruments. Not all States have established the principle *aut dedere aut judicare* in domestic law in accordance with the provisions of the international counter-terrorism instruments.

Counter-financing of terrorism

68. All States except two are parties to the Terrorist Financing Convention. There has been some progress in West Africa in criminalizing terrorism financing. Since

the previous survey, three more States (Côte d'Ivoire, the Niger and Togo) have incorporated into their national legislation the West African Economic and Monetary Union (WAEMU) Directive on Countering the Financing of Terrorism. As a result, more States have extended the reporting obligation to terrorism financing and included this offence as a money-laundering predicate offence. Due to the proactive role played by the Intergovernmental Action Group against Money-Laundering in West Africa, the anti-money-laundering and counter-financing of terrorism regimes of West African States are relatively advanced. All States have adopted anti-money-laundering laws. However, with the exception of a few that recently amended their anti-money-laundering laws, most States still need to review them to bring them into compliance with international standards. The Central Bank of WAEMU has embarked on a revision of the Uniform Anti-Money-Laundering Law that applies to all eight States of the Union. Amendments to the law will address, inter alia, customer due diligence obligations. In 2010, Ghana adopted the Economic and Organized Crime Act, which also establishes an Economic and Organized Crime Office as a specialized agency to monitor and investigate economic and organized crime.

69. Except in Nigeria, very few money-laundering cases (let alone terrorism-financing cases) have been prosecuted and resulted in conviction, despite an increase in the number of suspicious transactions reports. Judiciaries generally need to be strengthened in terms of capacity and independence. There has been some progress in West Africa with regard to financial intelligence units. Two more States have established financial intelligence units (bringing the total to 13); Cameroon and Côte d'Ivoire joined the Egmont Group, and Mali will do so shortly. With the exception of Nigeria and Senegal, financial intelligence units still lack the capacity to analyse suspicious transactions reports. The WAEMU/Counter-Financing of Terrorism Uniform Law provides for the administrative freezing of terrorist assets. The challenge for States will be to effectively implement this regime. In general, the subregion still needs to put in place adequate procedures allowing for the freezing of assets without delay and without prior notification to the person or entity concerned and including appropriate due-process safeguards.

70. States of the subregion have neither reviewed their non-profit sectors nor conducted risk assessments for terrorist financing. Legal requirements on the cross-border movement of currency (e.g., a declaration system) and bearer negotiable instruments exist in most States. With the exception of the Democratic Republic of the Congo, which is not a member of the Economic Community of Central African States (ECCAS), Central African States employ an anti-money-laundering/counter-financing of terrorism legal framework that consists of a self-executing ECCAS regulation that criminalizes money-laundering and terrorism financing; establishes customer due diligence and a reporting obligation; and provides for a financial intelligence unit. Information on the level of implementation of the regulation is, however, scarce. The Action Group against Money-Laundering in Central Africa lacks the capacity to assess implementation by its members of the "40+9" Financial Action Task Force on Money-Laundering recommendations on money-laundering and terrorism financing.

Law enforcement

71. Most States rely on criminal procedure codes to regulate the work of their law enforcement agencies. Very few States have established dedicated or specialized

counter-terrorism law enforcement units. The effectiveness of the system is undermined in almost all States by manual processing of information. Some States are willing to set up coordinating mechanisms, including at the operational level, in the Ministry of the Interior, but still face internal challenges related to resources, control and oversight. Some States have yet to address human rights concerns (e.g., exceptional periods of police custody and limits on access to counsel) relating to terrorism cases. Mali and the Niger are members of the newly established subregional Joint Intelligence Centre in Tamanrasset, Algeria. The creation of the new INTERPOL Regional Bureau in Cameroon, in 2010, supported by INTERPOL projects such as "OASIS Africa" (a project to develop operational policing capacities) will enhance the capacity of States of the subregion. The Bureau will work with the Central African Police Chiefs Committee to improve security in the subregion. Most international airports of visited States have access to the INTERPOL "I-24/7" database. However, few land borders are connected to national central bureaus and thus lack access to INTERPOL tools. The entry into force of the Economic Community of West African States (ECOWAS) Convention on Small Arms and Light Weapons, Their Ammunition, and Other Related Material, on 29 September 2009, was an important step in the subregion's regulation of arms trafficking. The Convention regulates arms brokering and prohibits any supply of weapons to terrorists. Eleven States have ratified the Firearms Protocol. There is no subregional action plan on counter-terrorism or subregional organization with a dedicated counter-terrorism unit, apart from the African Centre for the Study and Research on Terrorism, which covers all African Union member States.

Border control

72. Most West African States have partially introduced measures to detect forged travel documents. Central African States have provided insufficient information in this regard. The security and integrity of procedures for issuing identity papers and travel documents could be significantly enhanced. Mali has established a national pilot commission on a civil registry plan with a view to computerizing its system and ultimately securitizing the issuance of identity and travel documents. The vast majority of States still rely on manual systems. Two States have not met the ICAO deadline for introducing machine-readable travel documents. Readers for screening such travel documents are not widely available in the subregion. In most States, there is no established procedure for currency declarations. The operational exchange of information is hampered by lack of institutional and operational capacities and by linguistic challenges. There is a need to enhance the practical implementation of existing legal requirements on the cross-border movement of currency (declaration system) and bearer negotiable instruments throughout the subregion. In Senegal, customs officers report that offences related to illegal cash export are increasing, and a number of arrests have been made in that connection at borders with the Gambia and Guinea-Bissau.

73. Although all States but one are parties to both the 1951 Refugee Convention and its Protocol, United Nations human rights mechanisms have expressed concerns over inadequate legal frameworks in some States to guard against refoulement. All States have partially implemented measures to prevent and suppress the movement of terrorists across borders, but lengthy and open land borders will continue to pose challenges to border control. Nineteen States are parties to the Trafficking in Persons Protocol and 15 are parties to the Smuggling of Migrants Protocol. All but

three States have signed the Letter of Intent to implement the WCO SAFE Framework of Standards and have partially implemented the required measures. There are still no properly integrated border-management programmes. The great majority of land police border posts lack the tools and equipment to perform their missions, and national border-control agencies do not sufficiently cooperate among themselves or with their counterparts in neighbouring States.

74. In 2010, during the preparations for the biennial meeting of the Programme of Action on Small Arms, 16 States (including Guinea, Guinea-Bissau and Liberia for the first time) submitted a report on their implementation of the Programme of Action. Only one State has never submitted a report on its implementation. With respect to the ISPS Code of the 1974 SOLAS Convention, all non-landlocked States have designated a national authority responsible for port and ship security. Except in the case of the visited States (Nigeria and Senegal), there is insufficient information to permit an assessment of the implementation of the Code in West Africa. Central African States need to strengthen their maritime safety and security measures, as demonstrated at the 2010 IMO/Counter-Terrorism Committee Executive Directorate/United Nations Office on Drugs and Crime workshop in Libreville. States that have not yet done so should implement the SOLAS Convention (as amended in 2002) and its 2005 Protocols. There is also a need to fully implement the ISPS Code and the Long-Range Identification and Tracking system; register all seafarers and ships' crews; and issue secured identity documents in accordance with ILO standards, including the Seafarers' Identity Documents Convention (Revised), 2003 (ILO Convention No. 185). Lastly, annex 17 and related security provisions of annex 9 of the 1944 Convention on International Civil Aviation have been only partially implemented. Cape Verde, Gabon, the Niger and Togo have received second-cycle ICAO USAP missions, and the Central African Republic and Sao Tome and Principe have received first-cycle follow-up missions.

International cooperation

75. The rate of ratification of the international counter-terrorism instruments varies widely. In 2009 and 2010, the Democratic Republic of the Congo and Mali became parties to one or more international counter-terrorism instruments. States of the subregion still need to strengthen their domestic legal frameworks to improve their cooperation in criminal matters, in particular through the enactment of laws governing extradition and mutual legal assistance. In 2010, Ghana adopted the Mutual Legal Assistance Act, which enhances its capacity to provide for the implementation of agreements on mutual legal assistance and other arrangements for such assistance. States cooperate with one another primarily through bilateral treaties. The Convention on Extradition and Mutual Legal Assistance in Counter-Terrorism, adopted at the Fifth Conference of Ministers of Justice of the French-speaking African Countries on the implementation of the international counter-terrorism instruments, could enhance cooperation among many States of the subregion. Similarly, the adoption of a regional convention on extradition and mutual legal assistance, under the auspices of the African Union (including the African Centre for the Study and Research on Terrorism) could enhance inter-State cooperation in criminal matters.

Recommendations for practical ways to implement the resolution

76. **States of the subregion should:**

(a) Adopt national counter-terrorism legal frameworks that are comprehensive and coherent and that include all terrorist offences set forth in the international counter-terrorism instruments and effectively implement anti-money-laundering and counter-financing of terrorism laws and regulations, while also conforming to international human rights standards;

(b) Enhance internal coordination at the policy and operational levels;

(c) Strengthen efforts to enhance border security at points of entry and at sea, and develop current cooperative projects, such as coastguard networks, joint customs/police platforms at airports and community policing at open borders, including through participation in workshops such as the workshop organized by IOM, in cooperation with the Counter-Terrorism Committee Executive Directorate, held in April 2011 in Nouakchott.

77. **The Counter-Terrorism Committee and its Executive Directorate should:**

(a) Continue their active engagement with the relevant regional and subregional organizations engaged in the subregion (African Union, ECOWAS, the Intergovernmental Action Group against Money Laundering in West Africa, and MOWCA), with a focus on activities geared towards overcoming challenges and improving implementation of the resolution;

(b) Facilitate technical assistance to ECOWAS with a view to adopting a regional counter-terrorism action plan for West African States and establishing a dedicated subregional counter-terrorism office under the auspices of ECOWAS;

(c) Further strengthen their relations with the Central African Economic and Monetary Community, the Central African Police Chiefs Committee, the Action Group against Money-Laundering in Central Africa, the West African Police Chiefs Committee, the WCO Regional Intelligence Liaison Offices of West Africa (Dakar) and of Central Africa (Douala, Cameroon).

B. Asia

East Asia
(China, Democratic People's Republic of Korea, Japan, Mongolia and Republic of Korea)

The Committee has visited one of the States of this subregion.

General comments

78. Most States of the subregion have been subject to terrorist attack, whether carried out on their territory or against their nationals in other parts of the world. There is therefore a high level of awareness of the importance of remaining vigilant against the threat of terrorism, and most States have worked to strengthen their defences against potential attacks. The United Nations Consolidated List identifies a number of terrorist organizations pursuing their activities in the subregion.

79. Implementation of resolution 1373 (2001) is reasonably well advanced in the East Asia region, although challenges remain. Legislation has been enacted — although not always as comprehensively as recommended and not always in full accordance with international norms. States have also strengthened implementation of required counter-terrorism measures at the institutional level. An important accomplishment in this respect has been increased participation in, and involvement with, regional structures as well as provision of technical assistance on a bilateral basis. One State has not submitted sufficient information to allow for an assessment of its counter-terrorism efforts.

Areas of assessment

Legislation

80. Four States have comprehensive counter-terrorism laws in place. Most States have adequately addressed the criminalization in domestic law of the offences set forth in the international counter-terrorism instruments and the establishment of jurisdiction over the offences. However, United Nations human rights mechanisms have raised concerns about some States' imprecise legal definitions of terrorist offences and alleged violations in the administration of justice. During the review period, Mongolia and the Republic of Korea to some extent criminalized recruitment of members of terrorist groups. All States have now criminalized in domestic law the provision of safe haven to terrorists and their supporters and the use of their territories to commit or prepare terrorist acts against other States or their citizens. Additional information regarding how States put these provisions into practice would be beneficial.

Counter-financing of terrorism

81. China, Japan, Mongolia and the Republic of Korea have ratified the 1999 Terrorist Financing Convention and criminalized terrorist financing in their domestic law. These four States have also enacted anti-money-laundering laws. The inclusion of terrorism financing as a predicate offence to money-laundering, by several States, would strengthen these measures further. The same four States ensure that reporting obligations cover terrorist financing and have reported extending customer due diligence. These States have set up financial intelligence units and have put in place legislation to control the physical cross-border movement of cash and bearer negotiable instruments. China, Japan and the Republic of Korea have legal provisions in place to regulate the activities of non-profit organizations. China and the Republic of Korea are considering extending the reporting obligations to cover non-financial businesses and professions. The four States also have provisions that allow the freezing of assets of designated persons, but these might be strengthened by, for instance, putting in place sufficient legal safeguards enabling designated individuals or entities to appeal their designations or to request humanitarian exemptions on the frozen funds.

Law enforcement

82. Four States have established domestic counter-terrorism strategies and legislative frameworks to guide law enforcement agencies. Four States have set up national law enforcement units equipped with appropriate tools to work on counter-terrorism measures and initiatives supported by legislative mandates. However,

United Nations human rights mechanisms have expressed concern over alleged violations by law enforcement agencies. Three States have established a reasonable level of coordination and cooperation among their law enforcement authorities. All States have taken some steps to regulate the production, sale and transfer of arms and explosives, but the domestic legislation of some States contains no clear provisions on arms brokering, transit of weapons or Security Council arms embargoes. One State is not yet a party to the Firearms Protocol.

Border control

83. Four States have introduced procedures for the screening of travellers against national databases of individuals of interest to authorities. Four States use modern equipment to detect falsified travel documents. These States report that they have implemented control measures to ensure the integrity and security of the travel-document issuance process. China, Japan and the Republic of Korea have access to international databases for the screening of individuals. Four States issue machine-readable travel documents in compliance with international standards for document security. China recently initiated the preliminary phase of its e-passport programme. All States have introduced laws to prevent and suppress the movement of terrorists across borders, and four States take active steps to pursue offenders. Four States have either signed or ratified the Trafficking in Persons Protocol, and three have either signed or ratified the Smuggling of Migrants Protocol. China, Japan and the Republic of Korea are parties to the 1951 Refugee Convention, but sufficient information to determine whether an effective regime for detecting terrorist asylum-seekers is in place has not been provided by two of those States.

84. Four States have signed the Letter of Intent to implement the SAFE Framework of Standards to ensure the security of cargo against exploitation for terrorist purposes, and three have achieved an advanced stage of implementation. Three of those States have put in place mechanisms to control the cross-border movement of cash and bearer negotiable instruments, although methodologies for the detection of illicit transport could be enhanced. Four States have introduced legislation to implement standards and practices to ensure the security of civil aviation. All States have been audited by ICAO through its Universal Security Audit Programme. Three States have established a legal framework addressing requirements for maritime security and have partially implemented international mandatory standards for port and ship security in accordance with the ISPS Code. Three States have introduced stringent controls on the cross-border movement of arms, ammunition and explosives, as well as nuclear, chemical and biological material and their means of delivery. These three have implemented the Programme of Action on Small Arms, but two others have not reported on the Programme of Action and do not seem to have set up a national enforcement programme to combat arms smuggling.

International cooperation

85. Four States have ratified at least 12 of the international counter-terrorism instruments. Three States have introduced legal provisions to enable extradition, mutual legal assistance and information exchange and have entered into relevant bilateral treaties or other arrangements with other States. Mongolia has acted similarly, but its efforts in this regard could be enhanced. Two States could increase the number of such arrangements with other States in order to enhance their

cooperative efforts. Three States have introduced procedures prohibiting the extradition of individuals who may face the risk of torture or persecution. Two States have not provided information about their refoulement practices/procedures. International human rights mechanisms have expressed concerns at the lack of adequate legal safeguards in the extradition procedures of two States. China, Japan, Mongolia and the Republic of Korea have an early-warning system that forms an integral part of their respective counter-terrorism strategies. With the exception of one State, which has provided very little relevant information, all East Asian States are members of several regional organizations or mechanisms for international cooperation on counter-terrorism and have sought to strengthen these relationships.

Recommendations for practical ways to implement the resolution

86. **States of the subregion should:**

(a) Review their criminal laws in order to ensure that recruitment to terrorist acts and terrorist groups is sufficiently criminalized;

(b) Address deficiencies in the criminalization of terrorist financing and include it as a money-laundering predicate offence, and address deficiencies in the freezing of terrorist assets, especially by allowing for sufficient safeguards and including humanitarian exemptions in the freezing procedures;

(c) Review their criminal laws to ensure that the legal definitions of terrorist activity and procedures for bringing terrorists to justice are well framed and in line with the relevant principles on the rule of law.

87. **The Counter-Terrorism Committee and its Executive Directorate should:**

(a) Engage more actively with States that provide limited information on the implementation of resolution 1373 (2001);

(b) Work more closely with relevant international and regional organizations, through a variety of approaches, including facilitation of technical assistance with providers/donors and organization of workshops and other regional events to address specific areas of implementation requiring attention;

(c) Engage more actively with international and regional organizations and States to promote sharing of experiences and provision of technical assistance.

Pacific Islands
(Fiji, Kiribati, Marshall Islands, Micronesia (Federated States of), Nauru, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu)

The Committee has visited no State of this subregion.

General comments

88. The terrorism risk to States of the Pacific Islands Forum is considered low, because of their isolated geographic location, transport limitations, small size (a factor that deters anonymity) and their relatively unsophisticated financial and

commercial sectors. The region could, however, be vulnerable, at least, to use as a haven for terrorist activity, because of major resource constraints, which hinder implementation of required control measures in many areas of counter-terrorism.

89. Transnational crime, including drug trafficking, trafficking in persons, and money-laundering, is present in the Pacific region. Pacific Islands Forum States require sustained capacity-building (including strengthening of border and maritime security controls) to address this criminality and any potential links to terrorism.

90. Nonetheless, Pacific Islands Forum States have made good progress in implementing a variety of counter-terrorism measures in compliance with resolution 1373 (2001). They have enacted counter-terrorism legislation and made efforts to further strengthen regional coordination and cooperation, especially in the maritime context. Law enforcement efforts to combat transnational crime have been increased and could be adapted to counter-terrorism efforts if required. Several initiatives have been undertaken to raise awareness of financial institutions' reporting requirements pursuant to anti-money-laundering and counter-financing of terrorism legislation.

Areas of assessment

Legislation

91. Few States have fully codified the terrorist offences in their domestic legislation. In the case of seven States, legal provisions on the jurisdiction of the courts do not provide the scope required by the relevant international instruments to which they are parties, although the principle of "extradite or prosecute" is applied by most States. Six States criminalize recruitment to terrorism and Samoa's draft counter-terrorism law, once adopted, will do the same. Two States employ special criminal procedures, such as preventive detention and "special powers" for certain investigative techniques. However, no information has been provided about accompanying safeguards. Several States have drafted amendments to their counter-terrorism legislation that have not yet been enacted.

Counter-financing of terrorism

92. Ten States are parties to the Terrorist Financing Convention, and six of those States have adequately criminalized the financing of terrorism. All States have set up financial intelligence units, of which three are operational. The remaining units operate at various levels of efficiency and effectiveness and will require technical assistance to develop their capacity to meet international standards. Although all States have adopted anti-money-laundering legislation, in most cases the relevant provisions contain shortfalls, including the omission of terrorist financing on the list of predicate offences to money-laundering, as well as the exclusion of certain relevant non-financial businesses and professions from the list of entities obliged to provide suspicious transaction reports to the financial intelligence unit, carry out customer due diligence, and perform adequate record-keeping. In some cases, anti-money-laundering and counter-financing of terrorism laws have never been used as the basis for criminal prosecution or charges. Most States have introduced laws to control the cross-border movement of cash and bearer negotiable instruments. Seven States have enacted legislation to regulate non-profit organizations, but few have implemented measures to prevent terrorist financing through such organizations. The regulation and monitoring of alternative remittance systems remains a challenge for most States.

Law enforcement

93. Ten States have set up national security bodies ("combined law agency groups") or high-level central offices (comprised of law enforcement agencies, ministries of justice and prosecutors) to develop common counter-terrorism strategies and approaches, guide law enforcement efforts, and coordinate domestic security matters. Law enforcement agencies employ various mechanisms to maintain the rule of law, such as working closely together and actively enforcing legislation. Three States have set up transnational crime units to investigate terrorism and other crimes. However, States' reports do not contain information about law enforcement mechanisms or about specific exceptional criminal procedures or special investigative techniques. Five States are members of INTERPOL. All States share information through regional law enforcement mechanisms. Domestically, law enforcement agencies rely on relevant legislative provisions, memorandums of understanding and membership in national central bodies for cooperation, coordination and information-exchange. However, no State has provided information on practical mechanisms in this regard. All States have enacted laws to control the manufacture, possession, acquisition, sale, transfer, transport and supply of small arms and ammunition, but these laws do not include clear provisions on arms brokering, transit of weapons or Security Council arms embargoes. Only one State is a party to the Firearms Protocol. Too little information is available to determine the overall institutional or operational approach taken by Governments with regard to countering terrorism or overseeing counter-terrorism activities. Governments appear to regard the terrorism threat as low, and consequently devote law enforcement resources primarily to the investigation of ordinary crimes.

Border control

94. All States have enacted immigration and passport laws to regulate immigration and travel-document issues. Nine States have introduced some legislative controls on the issuance of identity and travel documents. Ten States issue machine-readable travel documents and two are taking steps towards doing so. All States appear to screen travellers on arrival and departure, but in the case of nine States, the nature of the data used to screen individuals is unclear. Three States report that they screen travellers against national databases. No State has provided adequate information on practical control measures put in place to secure the document issuance process or detect offenders at border points. States of the subregion have not indicated the procedures or mechanisms used to prevent and suppress the movement of terrorists across the borders. Five States are parties to the 1951 Refugee Convention, but only one State has ratified the Trafficking in Persons and Smuggling of Migrants Protocols.

95. Four States have signed the Letter of Intent to implement the WCO SAFE Framework of Standards and are moving towards the implementation phase. No information has been provided about mechanisms in place to control cross-border movement of cash and bearer negotiable instruments. More efforts should be made to implement legislation to control small arms, light weapons and explosives, and only four States have implemented the Programme of Action on Small Arms. Most States have introduced laws to establish national aviation security authorities and implement aviation security standards, but very few have provided information on their implementation of the relevant annexes to the Chicago Convention. During the review period, ICAO conducted aviation security audits of five States. Reports

provided to IMO indicate that seven States appear to have implemented aspects of the ISPS Code, including the development of port facility security plans. It appears, however, that States have not been updating their security plans periodically on the basis of security audits/testing as required by the Code. Two States have made concerted efforts to enhance their inspection of arriving vessels. Nonetheless, the available information does not present a clear picture of the implementation of the aviation, maritime or cargo security measures, border controls or enforcement programmes in place to ensure that small arms do not fall into the hands of unauthorized individuals.

International cooperation

96. The subregion has achieved a reasonable level of ratification of the international counter-terrorism instruments. Six States have ratified 10 or more instruments, and Fiji and Nauru have ratified all 16. The other States continue efforts at ratification. All States have set up mutual legal assistance arrangements to facilitate regional and international cooperation, and all have enacted extradition and mutual legal assistance laws, but it is not possible to determine the scope or number of bilateral and multilateral treaties and arrangements, or the degree of cooperation and coordination, because of lack of information. Exchange of information about crime and legislative approaches to combating crime is mostly limited to the subregion and neighbouring jurisdictions, and is accomplished largely through regional bodies, supported by regional declarations.

Recommendations for practical ways to implement the resolution

97. States of the subregion should:

(a) Further institutionalize their counter-terrorism frameworks and review their criminal laws in order to ensure that terrorist offences in each of the designated categories are properly criminalized; and, as applicable, enact counter-terrorism legislation;

(b) Further build the capacity of their financial intelligence units and law enforcement agencies to investigate financial and terrorism-related crime;

(c) Strengthen information-sharing among relevant authorities and continue to enhance regional coordination and cooperation.

98. The Counter-Terrorism Committee and its Executive Directorate should:

(a) Engage more actively with international and regional organizations engaged in the region (Asian Development Bank, Asia/Pacific Group on Money-Laundering, the Oceania Customs Organization, the Pacific Islands Association of Non-Governmental Organizations and Pacific Islands Forum secretariat) and conduct activities geared towards overcoming deficiencies and improving implementation of the resolution;

(b) Work more closely with Pacific Island States, through a variety of approaches (including joint facilitation of technical assistance with providers/donors and organization of workshops and other regional events) to address specific areas of implementation requiring attention;

(c) Consider future subregional visits. (The Committee has not visited any States of the subregion.)

South-East Asia (Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Philippines, Singapore, Thailand, Timor-Leste and Viet Nam)

The Committee has visited 10 States of this subregion.

General comments

99. Major terrorist groups in the region include Jemaah Islamiyah, which has been especially active in Indonesia, Malaysia and Singapore; the Abu Sayyaf Group; insurgent groups in the Philippines; and separatist insurgents in southern Thailand. Largely as a result of effective counter-terrorism law enforcement measures, these terrorist groups are mostly believed to be in decline, although still capable of occasional attacks (e.g., the Jemaah Islamiyah suicide bombings at two hotels in Jakarta in July 2009, after four years' silence, and a series of more recent terrorist attacks in Mindanao and southern Thailand). Since 2000, however, Indonesia has made over 600 arrests and prosecuted around 500 individuals for terrorist offences. This has not only removed a large number of dangerous people from society, but has shown the wider community that terrorism can be handled through the normal criminal justice system.

100. States of the subregion have moved well beyond mere law enforcement approaches to address the challenge posed by terrorist groups. They have actively promoted interfaith dialogue and public-private partnerships; set up community-policing initiatives; and experimented with prison rehabilitation programmes in an effort to address violent extremism at its roots. Indonesia, Malaysia and Singapore have gathered experience and good practices in this area and may be in a position to provide technical assistance to States in need.

101. All States except one have established special counter-terrorism bodies at the policy and/or operational levels. Overall, law enforcement capacity has been greatly enhanced. However, the criminal justice system in at least five States could be improved in order to bring terrorists to justice more effectively. Four States employ preventive (administrative) detention without charge or judicial commitment in peacetime, and this has been the subject of human rights concerns. However, some States are increasingly recognizing the relevance of a human rights-based approach to effectively countering terrorism.

102. The Association of Southeast Asian Nations (ASEAN) has worked to build a cooperative regional counter-terrorism framework. Timor-Leste is currently applying for ASEAN membership. The ASEAN Convention on Counter-Terrorism was adopted in 2007, but the rate of ratification is quite slow. Cambodia and the Philippines ratified the Convention in 2010, joining Singapore and Thailand. Ratification by two more States is required for the Convention to come into force. Multilateral and bilateral donors actively provide technical assistance to build States' counter-terrorism capacities.

Areas of assessment

Legislation

103. Eight States have incorporated counter-terrorism measures into their domestic law or introduced special counter-terrorism laws. Singapore has adopted comprehensive counter-terrorism laws incorporating all elements of resolution 1373 (2001). Cambodia has recently introduced comprehensive counter-terrorism laws. Three States must still introduce adequate counter-terrorism legal provisions. Some States' definitions of terrorism seem to be ambiguous or too broad and should be aligned with international norms. Half of the States of the subregion lack criminalization of the recruitment of members of terrorist groups. Most States do not criminalize incitement to terrorism and, where it is criminalized, the definitions are generally not specific enough, giving rise to concerns that the laws could be used to suppress freedom of expression.

Counter-financing of terrorism

104. Although all States except one are parties to the Terrorist Financing Convention, almost half of the States of the subregion do not sufficiently criminalize the financing of terrorism. Some States do not criminalize money-laundering in accordance with international norms. The Financial Action Task Force on Money-Laundering International Cooperation Review Group stated in June 2009 that six States of the subregion had anti-money-laundering and counter-financing of terrorism deficiencies. Four States have no mechanisms in place for freezing terrorist assets and funds, and most States' freezing mechanisms do not always work "without delay" as required by resolution 1373 (2001). Customer due diligence and record-keeping have been improved in most States. All States except one have financial intelligence units in place, and all States have experienced significant increases in the number of suspicious transactions reports they are required to process. Five financial intelligence units have considerably enhanced their ability to communicate with reporting entities and to analyse suspicious transactions reports. Malaysia and Singapore are considered to be in a position to provide technical assistance to other States in need relating to the functions of a financial intelligence unit. Reporting obligations have not yet been extended to all designated non-financial businesses and professions in most States. Awareness of the risks of abuse of the non-profit sector for the purpose of terrorist financing has been greatly increased among public officials over the past few years, and many States are trying to review their non-profit sectors to ensure that adequate regulations are in place. Reflecting the advance of technology, such as new payment methods, many States face new challenges in controlling alternative remittance systems. Most States have legal provisions in place to regulate the cross-border movement of cash and bearer negotiable instruments.

Law enforcement

105. Timor-Leste has recently completed the process of institutionalizing and integrating its national police force to create an independent structure. Law enforcement agencies are well structured and have established special agencies, committees and units to counter terrorism. In some cases, however, international mechanisms have expressed concern over human rights violations allegedly committed by security forces. In July 2010, Indonesia established the National Counter-Terrorism Agency and its Task Force in order to formulate counter-

terrorism policy and coordinate the activities of relevant Government agencies. Law enforcement officers are well trained at a number of regional institutes, including the Jakarta Centre for Law Enforcement Cooperation, in Indonesia, the South-East Asia Regional Centre for Counter-Terrorism, in Malaysia, and the International Law Enforcement Academy, in Thailand. ASEAN States work within the framework of the ASEAN Association of Heads of Police (ASEANAPOL) and contribute to its criminal database, which is connected to INTERPOL databases, in order to share information. However, inter-agency cooperation and information-sharing continue to require attention. It is believed that terrorists in the region rely mostly on conventional weapons. Despite strict legal and operational controls, artisans and family businesses that manufacture small arms and light weapons persist throughout the region. Only Cambodia and the Lao People's Democratic Republic have acceded to the Firearms Protocol.

Border control

106. All States except one have met the deadline set by ICAO to issue machine-readable travel documents. However, one State's machine-readable travel documents contain security vulnerabilities that should be addressed. Around half of the States of the subregion issue travel documents containing biometric features that render them even more secure. Many States lack relevant and viable police and intelligence lookout information at border control points, as well as connectivity with international "lookout" data contained in the INTERPOL "I-24/7" databases. Many States have not fully implemented modern detection methodologies such as risk-management practices, and lack inspection equipment to examine cargo crossing their borders. Detection of the illegal cross-border movement of cash and bearer negotiable instruments, and coordination among customs, financial intelligence units and law enforcement officials in this regard are either lacking or insufficient.

107. Management of open land and sea borders is a significant challenge for most States, not least because it encompasses thousands of islands, many of which are sparsely inhabited. All ASEAN States have expressed their intention to implement the WCO SAFE Framework of Standards, and many are making good progress towards doing so. Most States have controls on the cross-border movement of small arms and light weapons, but detection methodologies could be strengthened in a number of States. About half the States of the subregion have submitted reports to the Programme of Action on Small Arms. Four States received a second-cycle ICAO USAP mission during the period of assessment, and one State received a first-cycle follow-up mission. Overall, maritime security in the region needs to be strengthened. Most States do not have domestic refugee legislation, and only three States have ratified the 1951 Refugee Convention. However, most States have improved their cooperation with UNHCR with respect to the processing of refugee claims. Practical measures to prevent and suppress the movement of terrorists across borders could also be enhanced, with four States yet to ratify the Trafficking in Persons Protocol and five States yet to ratify the Smuggling of Migrants Protocol.

International cooperation

108. Nine ASEAN States are parties to the four aviation-related instruments. About half of the ASEAN States have ratified the 1988 maritime instruments, but no State has ratified the 2005 "amending maritime protocols". All ASEAN States are parties to the Terrorist Financing Convention. The rate of ratification of the nuclear-related

instruments and the Convention on the Marking of Plastic Explosives for the Purpose of Detection remains low. One State is not a party to any relevant instrument. Although the ASEAN Convention on Counter-Terrorism has not yet entered into effect, the ASEAN Treaty on Mutual Legal Assistance in Criminal Matters has been ratified by nine States, and is in force. Most States have adopted legal provisions on extradition, but half of the subregion's States need to improve these provisions. Three States do not extradite fugitives on the basis of reciprocity. Most States have designated a central authority for extradition and mutual legal assistance. ASEAN member States exchange information through ASEANAPOL and have signed the Agreement on Information, Exchange and Establishment of Communication Procedures. The number of memorandums of understanding on information exchange between financial intelligence units in the region has increased considerably.

Recommendations for practical ways to implement the resolution

109. **States of this subregion should:**

(a) Enhance their legislative and operational measures in order to fully address criminalization of the financing of terrorism; freezing mechanisms (paying due regard to due process); the effective functioning of financial intelligence units; the required controls on the cross-border movement of cash and bearer negotiable instruments; and control of the alternative-remittance and non-profit sectors;

(b) Strengthen border control measures at entry points by ensuring connectivity to national criminal databases and INTERPOL databases, training staff in detection and inspection methodologies and acquiring the necessary inspection equipment;

(c) Strengthen their criminal justice systems, including with regard to the right to fair trial, through training and seminars.

110. **The Counter-Terrorism Committee and its Executive Directorate should:**

(a) Strengthen cooperation with the regional counter-terrorism institutions, including the International Law Enforcement Academy, the Jakarta Centre for Law Enforcement Cooperation, the South-East Asia Regional Centre for Counter-Terrorism and others, to facilitate the provision of necessary technical assistance and training;

(b) Organize regional events to address shortfalls in controlling cash couriers and the non-profit sector;

(c) Work with partners to streamline bilateral technical assistance being provided to this subregion by donor States and organizations, in order to avoid duplication and fully address needs.

South Asia (Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka)

The Committee has visited three States of this subregion.

General comments

111. South Asian States have suffered greatly from terrorism at the hands of groups espousing a wide variety of ideologies. Terrorist groups active in various parts of the region include Al-Qaida, elements of the Taliban, Lashkar-e-Taiba, among others, which continue to threaten the peace and security of the States in the region. Porous boundaries, illicit drug production, increasing criminal activities, globalization and limited resources and response capacities have contributed to the internationalization of the terrorist threat in the region and beyond. There is a close link between drug production and terrorist activities in the region. States confront many common challenges and constraints in their efforts to counter terrorism.

112. Regional actors (notably, the South Asian Association for Regional Cooperation (SAARC)) have long recognized the threat posed to their citizens by terrorism. As early as 1987, the region's political leaders agreed on the SAARC Regional Convention on Suppression of Terrorism, which obliged parties to criminalize the acts under the Convention as terrorist acts, and for this purpose called for cooperation among its member States on extradition, evidence-sharing and other forms of information exchange and cooperation to prosecute those who are alleged to have committed such "terrorist acts". An Additional Protocol to the Convention was added in 2004 to address terrorist financing. To enhance effective prosecution of criminal cases, in 2008 the States in the region signed the SAARC Convention on Mutual Assistance in Criminal Matters.

113. Despite these initiatives, regional efforts to counter terrorism continue to face significant challenges. Attempts by States to achieve the peaceful resolution of conflict are an ongoing process. In many States, gaps in institutional capacities and limited resources make prioritizing counter-terrorism efforts difficult. In addition, the shortage of counter-terrorism legislation conforming to international standards and specialized counter-terrorism operational capacity limits the effectiveness of those mechanisms. States have made good progress in establishing anti-money-laundering/counter-terrorist financing regimes, but greater regional cooperation at the operational level is required.

Areas of assessment

Legislation

114. Four of the eight South Asian States have introduced legislation criminalizing recruitment for terrorism and prohibiting the use of their territories to commit or prepare terrorist acts against other States or their citizens. In addition, four States have introduced legislation criminalizing the provision of safe haven to terrorists and their supporters by individuals or organizations. The jurisdiction of courts in five States extends to acts committed outside a State's territory by its nationals (whether or not the individual is currently within the State's territory). Very few States have comprehensively updated their legal framework to include specific counter-terrorism laws. Instead, most have preferred to introduce limited

amendments to their penal codes. Maldives began in early 2011 to draft a counter-terrorism law, with the assistance of INTERPOL and the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime. United Nations human rights mechanisms have raised concerns over special counter-terrorism provisions that restrict certain rights in some States, which may in turn make it difficult to implement international agreements on mutual legal assistance and extradition. In this regard, some States could benefit from a review of their national legislation to ensure that it fully complies with the international counter-terrorism instruments and human rights obligations.

Counter-financing of terrorism

115. All States but one are parties to the Terrorist Financing Convention. The subregion has experienced numerous developments in anti-money-laundering and counter-financing of terrorism legislation in recent years. For example, Nepal adopted the Asset (Money) Laundering Prevention Act (2008), Bangladesh adopted the Money Laundering Prevention Ordinance (2009) and Pakistan passed the Anti-Money-Laundering Act (2010). India is the only country in the region to become a member of the Financial Action Task Force on Money-Laundering in June 2010. All eight States have set up financial intelligence units. Considering that many South Asian financial intelligence units were established only recently, the development of capacities is a priority concern. The capacity of States of the subregion to fieeze assets without delay and in accordance with due process is an issue of concern.

116. In its dialogue with States of the subregion, the Committee has identified several examples of good practice, including the development and enforcement of measures to protect charitable and non-profit funds from terrorist financing. This is particularly important when natural or man-made disasters require the urgent mobilization of large amounts of external funds (generally paid through non-profit organizations as charitable donations). Good practices designed to facilitate emergency relief efforts (e.g., simplified registration, customs and visa-issue procedures) have been identified. All eight States have legislation in place to regulate non-profit organizations, but it appears that in many States the implementation of legislation needs to be improved. Furthermore, there exist numerous vulnerabilities in money value-transfer systems. Although some South Asian States have put in place declaration regimes for the cross-border movement of cash and bearer negotiable instruments, some regimes address only cash moving out of the State and neglect cash moving into the State. Additional legislative measures are therefore needed.

Law enforcement

117. All three visited States have introduced a comprehensive strategy to counter terrorism and taken steps to develop specialized institutional counter-terrorism structures and measures managed by the relevant agencies. In these States, there is an awareness of the importance of cooperation, information-sharing and coordination among the various agencies and between the regional and national levels. All three visited States have played an active role in creating specialized counter-terrorism agencies and/or police units and in ensuring that those units are provided with the necessary training and tools to perform their duties in a range of counter-terrorism-related areas. For example, in 2009, Bhutan established an elite special forces unit in its police department to tackle terrorism. In 2008, India also

established the National Investigation Agency for undertaking investigation and prosecution for terrorist and other serious offences.

118. With the exception of draft legislation prepared by Sri Lanka, witness-protection laws and programmes, which protect witnesses as well as members of law enforcement and the judiciary, are lacking. United Nations human rights mechanisms have, in some cases, identified serious concerns related to excessive use of force, and challenges remain in respect of efforts to institutionalize human rights safeguards in the work of law enforcement entities. Strengthening of regional cooperation and information-sharing among law enforcement personnel is an additional challenge. States should strengthen their legal frameworks to criminalize the illicit manufacturing, possession and trafficking in small arms and explosives. Only one State is a party to the Firearms Protocol.

Border control

119. Porous land borders pose a threat to almost all States. In response, four States have introduced legislation to penalize the movement of undocumented persons across State borders. Efforts are being made to establish greater control over the issuance of identity papers and travel documents. States have established procedures to issue machine-readable travel documents. Bangladesh and Nepal began issuing machine-readable travel documents in 2010. The Unique Identification Authority of India began issuing Unique Identity numbers on 29 September 2010, and Pakistan established the National Database and Registration Authority, which has built a sophisticated computerized civil registry system that helps to facilitate the secure issuance of identity and travel documents. Some States have taken operational steps to ensure the implementation of legislation on cash couriers. South Asian customs agents participated in "Operation ATLAS" (26-30 October 2009), which involved 80 WCO member States and was the largest ever multilateral operation targeting cash smugglers. Most States should take further practical measures to identify and halt the illegal movement of cash across borders. All States have indicated their intention to implement the WCO SAFE Framework of Standards. No State has introduced a domestic law on asylum, and only Afghanistan is a party to the 1951 Refugee Convention and its 1967 Protocol. The current situation thus does not allow for the systematic screening of refugees for potential links with terrorism and other serious criminal activity. With regard to the criminalization of trafficking in persons and the smuggling of migrants, only India is a party to the Trafficking in Persons and Smuggling of Migrants protocols.

120. Further steps need to be taken to implement practical measures to suppress the smuggling of arms and explosives. Although three States reported to the Programme of Action on Small Arms, in 2010, and one did so in 2008, four other States have not reported to the Programme of Action at all. Airports in Bangladesh, Bhutan and Nepal were audited during 2009 and 2010 as part of the ICAO USAP. With regard to maritime security, the ISPS Code (1974 SOLAS Convention) is applicable and in force in five States of the subregion. Four of those five States have designated a national authority responsible for ship security, and three States have designated such an authority for port security.

International cooperation

121. Two States are parties to at least 13 of the international counter-terrorism instruments. No State has ratified the 2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the 2005 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf. The most recent activity in the region in this regard was the ratification by Pakistan of the Terrorist Financing Convention, in June 2009. During a June 2010 meeting of the SAARC Terrorist Offences Monitoring Desk, SAARC member States decided to share information on a real-time basis and to exchange data on many related areas, such as photographs of terrorists, terrorist incidents and terrorist profiles.

122. With the aim of enhancing the capacities of law enforcement officials in South Asia to counter terrorism and related crimes and, at the same time, to strengthen regional cooperation and information-sharing among law enforcement personnel, the Counter-Terrorism Committee Executive Directorate has facilitated a series of workshops (beginning in November 2009) aimed at bringing together law enforcement officials — primarily police officers and prosecutors — to share experiences, lessons learned and best practices in handling cases relating to international crimes and terrorism. All eight South Asian States have actively participated in the three meetings held to date, and the SAARC secretariat has attended as observer. Beginning with the fourth workshop, held in Bhutan in May 2011, this process will include the participation of judges.

Recommendations for practical ways to implement the resolution

123. **States of the subregion should:**

(a) **Address vulnerabilities in the money-transfer system and strengthen frameworks to prevent misuse of funds obtained overseas by charitable organizations;**

(b) **Develop a protection framework for witnesses, judges and law enforcement personnel;**

(c) **Strengthen regional cooperation and information-sharing among law enforcement personnel, including with regard to relevant human rights issues.**

124. **The Counter-Terrorism Committee and its Executive Directorate should:**

(a) **Continue to support initiatives to strengthen regional cooperation and information-sharing among law enforcement personnel, such as the regional workshops for police, prosecutors, other frontline officials and representatives of civil society working to counter terrorism in South Asia;**

(b) **Build upon ongoing efforts to actively involve SAARC in regional activities supported by the Committee and its Executive Directorate;**

(c) **Consider future visits to all States of South Asia, as well as follow-up visits to those already visited.**

Central Asia and the Caucasus (Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan)

The Committee has visited one State of Central Asia and three States of the Caucasus.

General comments

125. The implementation of resolution 1373 (2001) in Central Asia is hampered by several factors: proximity to the conflict in Afghanistan (where drug production feeds terrorist activities and has generated a dynamic arms-for-drugs trade); the illicit activities of transborder cash couriers (a potential source of terrorism financing); the circulation of surplus arms (owing to political and civil unrest in the region); remote and underprotected borders, coupled with the lack of human and material resources to ensure effective border control; and the large number of migrant workers (which in turn increases the use of informal remittance systems, a potential source of terrorism financing). Moreover, the Islamic Jihad Group, the Islamic Movement of Uzbekistan and its affiliated East Turkistan Islamic Movement — all Al-Qaida-affiliated groups — operate in some parts of the Central Asian region. Central Asian States are thus confronted with an acute transnational terrorist threat that requires concerted regional and coordinated responses.

126. Central Asian States have made significant progress in implementing a variety of counter-terrorism measures, in compliance with resolution 1373 (2001). They have enacted counter-terrorism legislation and laws to regulate trade on small arms. They are working to curtail terrorist movements by strengthening immigration controls and to enhance cargo security by strengthening certain customs controls. They have also made robust efforts in the area of counter-terrorism law enforcement and are increasing their bilateral and multilateral cooperation. These measures have brought tangible results by limiting the spread of the above-mentioned terrorist groups.

127. The Caucasus is a separate geopolitical region. The terrorist threats to this region are somewhat different in origin and nature, but their effects are similar. Unresolved ethnic and border disputes have resulted in conflicts that undermine efforts to develop a cohesive, regional counter-terrorism response. Moreover, the Caucasus includes landlocked and oil-producing States. As a result, a network of pipelines is required to transport oil and gas from Azerbaijan, Turkmenistan and Kazakhstan on the Caspian Sea to ports in Georgia and Turkey. There are concerns that this strategic infrastructure could be the target of terrorist attacks and that the Caucasus could serve as a corridor for terrorist groups transiting from Afghanistan into Europe. Moreover, Azerbaijan and Georgia border the Caucasus region of the Russian Federation, and there is a risk that terrorist groups operating in this region might cross shared borders in an effort to seek safe haven.

128. Several States of the Caucasus have taken steps to amend their legislation to comply with their international human rights obligations, notably by establishing judicial safeguards in criminal cases. However, States of this region still present a number of shortfalls. Procedural safeguards for asylum-seekers are still weak. Although judicial safeguards have been strengthened in many States, these safeguards have yet to be effectively implemented, especially at the initial stages of

investigation and the pretrial stage. Instances of torture, ill-treatment and arbitrary detention continue to cause concern. There is therefore a need to build upon the progress already made.

Areas of assessment

Legislation

129. All Central Asian States have introduced counter-terrorism legislation. Over the past two years, Kazakhstan and Turkmenistan have made progress in transposing the offences set forth in the international counter-terrorism legal instruments into their criminal codes. Kazakhstan has also penalized crimes relating to terrorist recruitment and terrorist groups. Some States might wish to review their domestic legislation with a view to ensuring that it complies fully with the international instruments. Counter-terrorism offences should be precisely defined in order to uphold the principle of legality while ensuring that they do not infringe upon activities protected by international law. In at least one State, the crime of terrorism appears to be defined too broadly, which could hamper cooperation at the international level.

Counter-financing of terrorism

130. Central Asian States have made tangible progress in implementing anti-money-laundering/counter-financing of terrorism provisions. All States are parties to the Terrorist Financing Convention. In 2009, Kazakhstan and Turkmenistan adopted appropriate anti-money-laundering/counter-financing of terrorism legislation that created financial intelligence units, obligated an extensive list of entities to report suspicious transactions and established criteria defining such transactions. Pursuant to the Committee's visit, Azerbaijan redefined and criminalized its terrorist financing offences, broadly in line with the Terrorist Financing Convention and the Financial Action Task Force on Money-Laundering Special Recommendation II. During the period 2009-2010, certain Central Asian States further refined and expanded existing anti-money-laundering and counter-financing of terrorism legislation. For instance, Uzbekistan set out rules for internal control and established penalties for entities failing to report, and Turkmenistan and Uzbekistan introduced strict customer identification and record-keeping procedures. Tajikistan established the Financial Monitoring Department (its financial intelligence unit) in October 2009 and prepared a new draft anti-money-laundering and counter-financing of terrorism law in November 2010. Remittances from Central Asian migrant workers working in other States members of the Commonwealth of Independent States (CIS) have been identified as a potential anti-money-laundering and counter-financing of terrorism risk requiring attention. Although these transfers are conducted through formal systems, the oversimplified customer identification procedures, the high volume of remittances and the difficulty in identifying the origin and purpose of the funds are causes for concern. The associated risks increase when such remittances are conveyed through informal systems. Moreover, there are concerns that the active arms-for-drugs trafficking emanating from Afghanistan may lead to terrorist financing in neighbouring Central Asian States, through the activities of cash couriers. Some Central Asian States have established declaration regimes for the cross-border carriage of cash and bearer negotiable instruments. Azerbaijan modified its anti-money-laundering and counter-financing of terrorism legislation in order to provide for enhanced customer due diligence measures.

Non-profit sectors should be regularly reviewed to ensure that non-profit organizations are not susceptible to abuse for the purposes of terrorist financing.

Law enforcement

131. Central Asian States have strengthened law enforcement measures since the previous survey through enhanced inter-agency cooperation and information-sharing and the establishment and utilization of criminal and other databases, both domestically and internationally, in support of law enforcement counter-terrorism efforts. Turkmenistan and Uzbekistan are utilizing centralized databases to which counter-terrorism law enforcement agencies have access. All States participate in regional mechanisms on law enforcement cooperation. Turkmenistan and Uzbekistan engage in information-exchange and respond to requests for legal assistance (at both the national and international levels) regarding persons linked to terrorism. Because there is a human rights element inherent in law enforcement work, there is a need to strengthen oversight mechanisms. Uzbekistan established a legal framework of safeguards to strengthen the rights of suspects, detainees and defendants and to investigate complaints of violations of such rights and the use of torture. All States have taken some steps to regulate the production, sale and transfer of arms, ammunition and explosives. Three States have ratified the Firearms Protocol. States of the Caucasus would benefit from clearer procedures for cooperation and coordination among law enforcement agencies, at both the national and international levels, to ensure effective investigation and prosecution. (Azerbaijan, for example, has established a unified national database that provides law enforcement agencies with access to immigration, visa and border-control information.) Moreover, States should be more proactive in ensuring that the prosecution of terrorism cases is conducted effectively, utilizing good practices and respecting international fair-trial standards.

Border control

132. States of the subregion report progress in implementing legislative and operational measures relating to the cross-border movement of people and goods and aviation security. States have established procedures to determine the true identity of persons prior to the issuance of travel documents, and most issue machine-readable travel documents. Legislation to prevent the movement of terrorists across borders is in place, with all States having ratified the Trafficking in Persons Protocol and all but two being parties to the Smuggling of Migrants Protocol. (Implementation of measures to prevent and suppress the movement of terrorists across borders could be improved, however.) In 2009, Turkmenistan introduced the Law on the Migration Service, and in January 2011, Uzbekistan introduced machine-readable travel documents. Kazakhstan screens individuals in accordance with the Consolidated List, the watch lists of the Shanghai Cooperation Organization and CIS, as well as bilateral and intergovernmental agreements, before granting temporary or permanent residency or naturalization. Persons seeking to enter Azerbaijan illegally are detained in temporary centres located at border crossings and undergo identification and fingerprinting procedures. Armenia, Azerbaijan and Georgia all issue machine-readable travel documents and Azerbaijan has incorporated several security features into its passports, which are issued through a centralized and controlled national office. All States but one are party to

the 1951 Refugee Convention, but their implementation of screening and exclusion mechanisms may be somewhat inconsistent.

133. Practical implementation of methods to identify and halt cash couriers and also to detect the illicit movement of cash and bearer negotiable instruments through other means needs to be improved in most States. It is not clear to what extent travellers are screened, their baggage inspected and appropriate actions taken. All States but one have indicated their intention to implement the WCO SAFE Framework of Standards, and Azerbaijan is implementing its own State Programme on the Development of the Customs System of the Azerbaijan Republic 2007-2011. In Azerbaijan, weapons-detection and surveillance equipment has been installed at international border crossings. Armenia, Georgia, Kazakhstan and Turkmenistan submitted a national report to the Programme of Action on Small Arms, in 2010. Azerbaijan checks personal applications for a permit to legally possess firearms against a national "blacklist" produced by the Ministry of the Interior and the National Security Service. The import/export of arms for military or law enforcement purposes requires the approval of the Cabinet of Ministers. No State of the Caucasus has ratified the Firearms Protocol, but Kazakhstan and Turkmenistan have done so. Increasingly, States of the subregion participate in regional projects and programmes (which encourage the soliciting, collecting and sharing of information and intelligence) as a means of enhancing capacity to address border-related threats of terrorism and organized crime. In some States, the lack of technical equipment, such as document readers and cargo scanners and the lack of full database connectivity prevent a thorough and effective screening of travel documents and cargo at border crossings.

International cooperation

134. Seven of the eight States of Central Asia and the Caucasus have ratified 12 of the international counter-terrorism legal instruments, with Kyrgyzstan actively considering adherence to the 6 instruments to which it is not yet a party. No State of the region has ratified the 2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the 2005 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf. Even though most States are landlocked, they should nevertheless ratify the two 2005 Protocols and transpose their offences into domestic law for the purposes of dual criminality when responding to requests for mutual legal assistance and extradition. In 2009, Turkmenistan introduced legislation to enhance information-sharing and mutual legal assistance with foreign States in the area of anti-money-laundering and counter-financing of terrorism. Central Asian States belong to regional organizations that address specific aspects of counter-terrorism, including legislation, anti-money-laundering and counter-financing of terrorism, law enforcement and border security in the particular regional context. These States do interact with one another within these multilateral frameworks, but it is also important that they expand bilateral linkages in matters pertaining to mutual legal assistance and extradition, as well as to cooperate jointly in border security (especially as terrorist threats are often cross-border in nature). No State can counter terrorism alone, because the transnational nature of the terrorist threat requires cooperation and coordination with other States. In the Caucasus, the combination of terrorist activity, ongoing hostilities and the presence of the oil industry necessitates robust cooperation in the implementation of counter-

terrorism measures. For this reason, it is important to establish effective, durable and holistic mechanisms for regional collaboration in the areas of law enforcement, border security, mutual legal assistance and extradition.

Recommendations for practical ways to implement the resolution

135. **States of the subregion should:**

(a) **Ensure that national criminal and related databases are established, maintained and updated, and linked to law enforcement and border offices;**

(b) **Ensure that technical equipment (document readers, scanners and fraud detection) are installed at key border crossings;**

(c) **Tighten controls/monitoring of remittance systems (both formal and informal), including the physical movement of cash and bearer negotiable instruments across borders.**

136. **The Counter-Terrorism Committee and its Executive Directorate should:**

(a) **Engage more actively with the international and regional organizations engaged in the region (including the Collective Security Treaty Organization (CSTO), the Organization for Security and Cooperation in Europe (OSCE), the Shanghai Cooperation Organization Regional Anti-Terrorist Structure, and the OSCE Border Management Staff College in Dushanbe, Tajikistan) in order to focus on activities geared towards overcoming deficiencies and improving implementation of resolution 1373 (2001);**

(b) **Work more closely with States of Central Asia and the Caucasus through different approaches (including the facilitation of technical assistance in cooperation with providers/donors and the organization of regional workshops) to address specific areas requiring attention, including strengthening of criminal justice systems and specialized programmes for judges and prosecutors;**

(c) **Consider future visits and follow-up visits to this subregion in order to engage more actively with States.**

Western Asia (Bahrain, Iran (Islamic Republic of), Iraq, Jordan, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia, Syrian Arab Republic, United Arab Emirates and Yemen)

The Committee has visited seven States of this subregion.

General comments

137. Threats and challenges in the subregion include terrorism, regional conflicts, instability caused by political transition and civil unrest, and piracy. In general, States of the subregion have strengthened their counter-terrorism measures since the adoption of resolution 1373 (2001). However, there is a need to fine-tune some of these measures to bring them into line with international codes and best standards and practices for implementing the resolution (including adherence to the rule of

law and international human rights obligations). States of the subregion should ensure effective judicial oversight of law enforcement activities to guard against abuses and prevent impunity.

138. The advanced economic status of several States of the subregion and the presence of political instability in neighbouring areas present the risk that funds may leak to terrorist groups. There is therefore a need to enhance the security of financial sectors, controls on remittances, and movement of cash across borders.

139. The non-profit sector is carefully regulated by several jurisdictions. (For example: the practice of collecting money at kiosks has been banned in both Kuwait and Saudi Arabia, and charities are more closely regulated, in general, by the relevant ministries.) There is a need to enhance connectivity in order to facilitate exchange of information between the databases of charities and law enforcement agencies.

140. Because of the ongoing terrorist threat to parts of this subregion, there is a need to enhance border control, screen travellers, and prevent the smuggling of weapons. There is also a need for some States to deal more effectively with the large number of asylum-seekers in the region, notably by becoming parties to the 1951 Refugee Convention.

Areas of assessment

Legislation

141. Most States have in place a counter-terrorism legal framework that relies primarily on their respective penal laws, supplemented by other special decrees. Most States have the capacity to investigate terrorist cases. Perpetrators of terrorist acts have been arrested and subsequently brought to justice in a number of jurisdictions. However, several States rely on overly broad legal definitions and special criminal procedures that have raised concerns among United Nations human rights mechanisms and could also present difficulties in respect of international cooperation. Some States consider the international conventions to which they are a party an integral part of their national legislation. However, the United Arab Emirates has proactively incorporated most of the offences of the international instruments into its domestic legislation and draft laws to this effect are also being considered by Saudi Arabia and several other jurisdictions. Several States have criminalized recruitment for the purpose of committing terrorist acts. Saudi Arabia has put in place a terrorist rehabilitation programme that has shown some promise. The United Arab Emirates has policies to promote tolerance and moderation in all communities in the State as a measure to build community resilience against recruitment and radicalization. The provision of safe haven for terrorists is criminalized in most States, which also criminalize the use of their territories to commit or prepare terrorist acts against the citizens, installations, or diplomatic representatives of other States, considering any terrorist acts against these targets as an act against their own national security. However, States still need to domesticate the principle *aut dedere aut judicare* in accordance with the international counter-terrorism instruments.

Counter-financing of terrorism

142. Seven States are parties to the Terrorist Financing Convention (including Yemen, which became a party in 2010). Most States of the subregion have adopted anti-money-laundering legislation and regulations and have established multiple regulatory bodies. However, there is a need for similar measures, particularly operational measures, to be put in place with regard to counter-financing of terrorism. Most States, for example, have yet to criminalize the financing of terrorism and establish it as a predicate offence to the money-laundering offence. States that have partially criminalized the financing of terrorism have still to ensure that all elements of article 2 of the Terrorist Financing Convention are included. Reporting obligations extend to the financing of terrorism primarily in those States that have partially criminalized terrorist financing. Others may have in place reporting obligations concerning counter-financing of terrorism through central bank circulars, but no legal framework for bringing perpetrators of such offences to justice. Most States have increased the number of laws and regulations in place to ensure that customer due diligence and record-keeping requirements are extended to designated non-financial business and professions. Most States have measures in place for seizure and confiscation. In 2010, Jordan amended its anti-money-laundering and counter-financing of terrorism law to bring it up to international standards, including by issuing an instruction establishing an administrative freezing of terrorist funds. In general, measures to freeze funds linked to terrorism in most States of the subregion need further enhancement, including streamlining of the process and the operations to freeze funds without delay.

143. Most States have established a financial intelligence unit. Those of Bahrain, Lebanon, Qatar, Saudi Arabia, the Syrian Arab Republic and the United Arab Emirates are members of the Egmont Group. Other financial intelligence units still need to become fully operational and could benefit from the experiences and assistance of the aforementioned more advanced units. In 2009, a computer-based training pilot programme on anti-money-laundering was successfully set up by the Iranian Judiciary and the Ministry of Economy and Financial Affairs located in the financial intelligence unit. Most States have adequate laws and regulations in place to regulate registration of non-profit organizations. Some have also introduced regulative measures under the auspices of security services. In Saudi Arabia, the accounts of charitable organizations and associations are regulated by the Saudi Arabia Monetary Agency rules for opening and operating accounts with commercial banks. However, most States have yet to conduct risk assessments of their non-profit sector with a view to ensuring that it is not misused for the purpose of terrorist financing. Most States have legal measures in place to regulate cash couriers, and some have disclosure systems.

Law enforcement

144. All visited States have adopted counter-terrorism strategies and put in place specialized counter-terrorism institutional structures and measures that are managed by law enforcement agencies. These States were observed to have relatively advanced capacities to conduct investigations. Forensics and technological capacities vary throughout the region and seem to be more advanced in the States of the Gulf Cooperation Council (GCC) visited by the Committee. Community policing plays an important role (e.g., in one visited State, the Government uses mobile "smart" telephones to notify the public of significant events and posts police

information on an Internet-based social-networking service). Internal coordination and information-exchange in most States is conducted at the policy level, and "cascaded" down to the operational level manually and through personal contacts, rather than electronically. This cooperation/coordination would be enhanced by the use of common or interlinked databases.

145. Two forums that enhance regional policy cooperation among States of the subregion are the Council of Arab Ministers of the Interior and GCC. The latter, in particular, has strengthened, through the use of national identification cards containing appropriate biodata, both national and regional security and ease of movement of its citizens through mutual borders. The Permanent Security Council on Counter-Terrorism of GCC meets annually and in 2009 adopted a guidance plan for training counter-terrorism officials of GCC members. In view of concerns expressed by United Nations human rights mechanisms regarding excessive use of force and ill-treatment of detainees in the context of counter-terrorism in parts of the region, there appears to be a need for States to introduce more systematic oversight of law enforcement activities, including by the judiciary. All States have taken some steps to regulate the production, sale and transfer of arms and explosives, though only four have ratified the Firearms Protocol. Most States have legal measures in place, including declaration systems, to regulate cross-border currency movements.

Border control

146. Most States have introduced measures to detect forged travel documents. The United Arab Emirates uses a multitiered approach to document security and travel-document inspection, which includes primary screening of travel documents and secondary screening of suspect documents in a well-equipped forensic document examination laboratory. In Jordan, officials at all major border checkpoints have advanced document fraud-detection equipment at their disposal. On-site observations indicate that the equipment is being regularly used to identify travel-document fraud. All States of the subregion met the ICAO deadline of April 2010 for the introduction of machine-readable travel documents. All visited States use INTERPOL databases. Most States, however, need to extend access to INTERPOL databases to border posts for use by front-line officers. Most States have operational mechanisms in place to identify and halt cash couriers. In Jordan, the customs department has set up an Anti-Money-Laundering and Counter-Financing of Terrorism Unit, which has access to various internal and external databases and cooperates with all border posts.

147. Only two States are parties to the 1951 Refugee Convention, and very few States have laws on asylum-seekers, relying primarily on the offices of UNHCR in the region to help them manage these processes. United Nations mechanisms have expressed concern regarding inadequate legal and practical measures to guard against refoulement in several States. Most States screen applicants before granting any form of temporary or permanent residence. Members of GCC use advanced technologies in this regard. In the United Arab Emirates, individuals seeking visas upon arrival are checked against alert lists, which are maintained in the national database, in both Latin and Arabic script. The immigration authorities also use an iris recognition immigration system to check the nationals of States that constitute the bulk of its migrant labour. Seven States are parties to either the Trafficking in Persons or Smuggling of Migrants Protocols (three States are parties to both), although implementation is difficult to measure. All States have signed the Letter of Intent to implement the WCO SAFE Framework of Standards and have partially

implemented the requisite measures. In the United Arab Emirates, the Central Customs Intelligence unit feeds information/intelligence into the risk profiles installed in the electronic customs-clearance system. In Kuwait, risk profiles have been integrated into the electronic customs-clearance system.

148. Bahrain, the Islamic Republic of Iran, Iraq, Jordan, Oman, the Syrian Arab Republic and Yemen submitted their reports for the period 2009-2010 on the implementation of the Programme of Action on Small Arms. However, States still need to reinforce their programmes and cooperation and to implement the latest international best practices and arms control standards. The ISPS Code is partially implemented throughout the subregion. Jebel Ali Port in the United Arab Emirates is by far the largest port in the Middle East. Consequently, the United Arab Emirates takes maritime security and threat prevention seriously, and has put in place advanced systems, infrastructures and processes to assess and respond to risks while also ensuring the smooth facilitation of trade. In general, most States could improve their maritime capacities through utilizing long-range identification and tracking systems to track foreign flag vessels or to track vessels beyond their respective automatic identification systems. Annex 17 and related security provisions of annex 9 to the Convention on International Civil Aviation are partially implemented in all reporting States. The United Arab Emirates and Jordan have each received a second-cycle ICAO USAP mission and the Islamic Republic of Iran has received a first-cycle follow-up mission. The United Arab Emirates and Jordan have instituted a number of significant improvements to aviation security policies, programmes and the implementation of security controls at the airport level.

International cooperation

149. Jordan, the United Arab Emirates and Yemen have each become parties to an additional counter-terrorism instrument, and Bahrain became a party to three additional instruments. Both Bahrain and the United Arab Emirates are now parties to 14 instruments. Only a few States have domestic provisions in place governing extradition and mutual legal assistance. Members of GCC and members of the League of Arab States follow their relevant uniform model legislation on extradition and mutual legal assistance. These would, however, be limited to the practice in the region, which is also governed by multilateral and bilateral treaties. Mutual legal assistance and extradition with States outside the region is primarily governed by bilateral treaties, and the consideration of extradition is normally triggered by INTERPOL notices. Most States need to exclude from the "political offence" exemption the offences of the international counter-terrorism instruments to which they are parties.

Recommendations for practical ways to implement the resolution

150. States of the subregion should:

(a) Train prosecutors and judges, as well as other relevant law enforcement officials, in the effective implementation of recently enacted laws in the field of counter-terrorism and/or money-laundering, with due regard for international human rights obligations;

(b) Enhance the legislative and regulatory frameworks for countering the financing of terrorism, including through criminalizing the financing of terrorism, adopting necessary measures to freeze funds without delay, and conducting risk assessments of the non-profit sector;

(c) Continue taking measures to enhance border security through the implementation of relevant international best codes and practices.

151. **The Counter-Terrorism Committee and its Executive Directorate should:**

(a) Engage more actively with relevant regional organizations, including the League of Arab States, GCC, the Organization of the Islamic Conference and the Middle East and North Africa Financial Action Task Force, with a focus on activities geared towards overcoming challenges and improving implementation of the resolution;

(b) Continue building upon the close dialogue established with States visited in the region, particularly in the light of current developments in the subregion. This would also assist in identifying best ways to facilitate technical assistance through, for example, the organization of workshops and other regional events to address specific areas of implementation requiring attention;

(c) Engage more actively with States of the subregion through further follow-up visits to West Asian States, and by taking the opportunity of being present in the region to conduct bilateral meetings with officials of relevant States.

C. Latin America

Central America and the Caribbean (Antigua and Barbuda, Bahamas, Barbados, Belize, Costa Rica, Cuba, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, and Trinidad and Tobago)

The Committee has visited two States in this subregion.

General comments

152. The threat of terrorism has remained low in the Central America and the Caribbean region. Home-grown terrorism and the movement of groups of terrorists, or suspected terrorists, across its territories have not been documented or detected. However, the foremost security challenges being faced by States of the subregion continue to be escalating levels of criminal activity and their debilitating effects on society. A range of factors account for the crime and insecurity landscape, primary of which is the illegal drug trade, as well as illegal trafficking of firearms, trafficking in persons, gang warfare, unemployment, corruption and, in some cases, the inability of criminal justice systems to bring perpetrators to justice. Although terrorism is not specifically mentioned as a consistent occurrence, it certainly is an area of concern, as many of the above-mentioned factors have the potential to fuel terrorist acts in the region. Moreover, because of its geography (which includes expansive and open sea borders and numerous small island States), the region is vulnerable to criminal activity in the maritime domain and thus confronts challenges relating to effective maritime and border control. These challenges are complicated by constraints on the human and material resources available to address them. However, Governments continue to implement required measures and do cooperate

bilaterally and regionally to address these problems. The availability of small arms is an issue of significant concern in Central America. There are more than 2 million unregistered small arms in circulation.

153. The subregion has made good progress in complying with resolution 1373 (2001), particularly in countering the financing of terrorism and in the adoption of measures relating to port and airport control. Similarly, counter-terrorism legislation has been adopted, providing judicial and prosecutorial authorities with adequate legal powers to bring terrorists to justice. States have developed regional mechanisms for ensuring coherent legal and institutional capacity-building in the control of financial systems, law enforcement and border control, ensuring cooperation, attention to human rights and non-duplication of activities.

Areas of assessment

Legislation

154. All Central American and Caribbean States have introduced anti-money-laundering and counter-financing of terrorism legislation that include provisions for the offences of terrorism and terrorist financing. However, States have not yet fully incorporated into domestic law the offences established in the international instruments. All States prohibit the use of their territories by their nationals to commit or prepare terrorist acts against other States, and a third of States have adequate measures for the suppression of recruitment of members of terrorist groups, for the criminalization of the provision of safe haven to terrorists or their supporters, and for establishing adequate jurisdiction for relevant offences in national law.

Counter-financing of terrorism

155. Most Central American and Caribbean States have ratified the Terrorist Financing Convention and adopted anti-money-laundering and counter-financing of terrorism legislation establishing the financing of terrorism as an independent offence and as a predicative offence to money-laundering legislation. Although States have set up financial intelligence units to analyse suspicious transactions reports, a number of these units require operational capacity-building. States could also improve the compliance of financial institutions with customer due diligence standards, particularly regarding politically exposed persons. Many States have in place legislation to control the physical cross-border movement of cash and bearer negotiable instruments. In 2009, Costa Rica approved the Law against Terrorism, which included terrorist financing. During 2010, Belize, Jamaica and Saint Lucia amended their counter-financing of terrorism legal provisions to further strengthen their respective regimes. Jamaica has initiated a programme to modernize its financial intelligence unit, and Barbados has approved the creation of six additional positions within its financial intelligence unit and upgraded its information technology system. The financial intelligence units of Antigua, Bahamas, Barbados, Belize, Bermuda, Dominica, Grenada, Saint Kitts and Nevis, Saint Lucia, and Saint Vincent and the Grenadines have become members of the Egmont Group. A number of States have not yet implemented procedures to identify and freeze terrorist assets without delay. About half of States implement some measures to guard against terrorist financing through the non-profit sector. Further efforts must therefore be made in this regard.

Law enforcement

156. All Central American and Caribbean States have put in place effective law enforcement measures and entered into bilateral, regional, and international agreements for cooperation and exchange of information. States have enhanced inter-agency cooperation, sharing of information, and the establishment and use of criminal databases, both domestically and internationally, in support of law enforcement and counter-terrorism efforts. All States of the subregion are members of INTERPOL and have established national central bureaux. Some States are also members of the Commission of Chiefs of Police of Central America and the Caribbean and have access to its databases. However, many States need to improve the capacity of their national central bureaux in order to ensure connectivity of border checkpoints to centralized databases. The subregion is vulnerable to arms smuggling, and most States have shortfalls in their national legislation to regulate a variety of illegal activities regarding small arms and light weapons, despite 17 States having ratified the Firearms Protocol.

Border control

157. The Caribbean region is a leader in multi-country biometric border control programmes, with 15 States and 18 airports operating on the same fingerprint and facial biometrics-based system. The region has also developed the Caribbean Travel Pass (CARIPASS) programme, which provides secure and facilitated border crossings for citizens and legal residents of the Caribbean Community. All States of the subregion screen visitors and people requesting visas or residency status against a variety of national and international databases. All States issue machine-readable travel documents and a number of States have introduced Advanced Passenger Information. Two thirds of States have introduced mechanisms for establishing the true identity of citizens prior to the issuance of identity documents, but there is a need for greater security and integrity of the issuance process of identity and travel documents.

158. Customs controls on illegal trafficking of small arms and light weapons, ammunition and explosives are implemented by around half of States, but there is a need to strengthen customs controls and the training of officers. Eight States have reported on their implementation of the Programme of Action on Small Arms. A Caribbean Community Task Force and the Organization of American States (OAS) Secretariat of Multidimensional Security have put in place a regional programme to halt the proliferation of illegal small arms. This problem has been identified as a major threat to the ability of Caribbean States to guarantee security and non-violence for their citizens. Thus far, only Trinidad and Tobago has kept its obligations updated. The trafficking of drugs and small arms continues to be a serious concern to the subregion, especially across unguarded sections of the border. The illicit movement of cash and bearer negotiable instruments is also a concern. Although many States have put in place mechanisms to control the cross-border movement of cash and bearer negotiable instruments, detection methodologies could be enhanced. Most States have expressed their intention to implement the WCO SAFE Framework of Standards, and most have moved to implement its standards. ICAO conducted aviation security audits in nine States in 2009 and 2010. There is a lack of information regarding the implementation of maritime security standards, as most States have not provided sufficient information on their implementation of IMO maritime security standards. Seventeen States are parties to the 1951 Refugee

Convention and more than half have put in place measures to prevent the abuse of asylum procedures. All but four States have ratified the Trafficking in Persons and Smuggling of Migrants Protocols.

International cooperation

159. One State, Panama, has ratified 15 of the international counter-terrorism instruments, three have ratified 13, and most States of the subregion have ratified around 12 instruments. However, two States have ratified no more than six instruments. Around half of States have introduced adequate provisions on extradition and mutual legal assistance, and the remainder are making progress in this regard. States of the Caribbean have, however, adopted the Caribbean Treaty on Mutual Legal Assistance in Serious Criminal Matters (including offences relating to terrorism, terrorism financing, money-laundering and drug trafficking). The Treaty obligates States to afford the widest measure of mutual legal assistance at any stage of investigations, prosecutions, and judicial proceedings in relation to the above-mentioned serious criminal offences. Moreover, 20 States are members of the OAS Inter-American Committee against Terrorism, and around half of these States are parties to the Inter-American Convention against Terrorism and have ratified the Inter-American Convention on Mutual Assistance in Criminal Matters. Regional and bilateral mechanisms for law enforcement cooperation, such as early warning mechanisms and intelligence cooperation, have been established. Cooperation in the subregion is continuously improving, but should be further strengthened, especially in border areas, in order to bolster controls against possible terrorist incursion and proliferation of transnational crime.

Recommendations for practical ways to implement the resolution

160. **States of the subregion should:**

(a) Strengthen legislative and practical measures to regulate and control illicit trafficking in small arms and light weapons;

(b) Continue to improve border-control measures in order to increase effectiveness in preventing and detecting illicit cross-border activity;

(c) Improve customs-control methodologies in the cargo-processing domain in order to guard against manipulation for terrorist ends.

161. **The Counter-Terrorism Committee and its Executive Directorate should:**

(a) Continue to strengthen their partnerships with regional organizations in support of effective implementation of resolution 1373 (2001) by Member States of the subregion;

(b) Engage more actively with States of the subregion through visits and strengthened dialogue, especially with key actors and policymakers, in order to heighten awareness of resolution 1373 (2001) and of requirements for its effective implementation;

(c) Continue to facilitate delivery of technical assistance in the identified areas of need, partnering with international and regional organizations and donor States, in order to build capacity.

South America (Argentina, Bolivia (Plurinational State of), Brazil, Chile, Colombia, Ecuador, Guyana, Paraguay, Peru, Suriname, Uruguay and Venezuela (Bolivarian Republic of))

The Committee has visited two States of this subregion.

General comments

162. The threat of terrorism to the subregion is considered to be low, but vulnerabilities to terrorism-related activities remain high, particularly in certain areas. The existence of domestic insurgent groups operating in the region, including the Fuerzas Armadas Revolucionarias de Colombia (FARC) guerrillas in Colombia, the Sendero Luminoso (Shining Path) and Tupac Amaru in Peru, and the Paraguayan Popular Army, present tangible security threats. In some cases, proceeds from the production and trafficking of illicit drugs and other transnational criminal activities are being used to finance existing illegal armed groups. Maintaining sufficient border security controls remains challenging, especially taking into account the difficulties posed by the subregion's geography.

163. South American States have made tangible progress in implementing a variety of counter-terrorism measures in compliance with resolution 1373 (2001). They have enacted counter-terrorism legislation, and most have ratified at least 12 of the international counter-terrorism instruments. Efforts have been made to further strengthen regional coordination and cooperation. Law enforcement efforts have been increased to combat transnational crime and could be adapted to counter terrorism as required. Governments have launched several initiatives to raise awareness, among financial institutions, of the requirement to report suspicious transactions.

Areas of assessment

Legislation

164. Although no State has fully integrated into domestic law the terrorist offences of the 16 international counter-terrorism instruments, six States have established comprehensive counter-terrorism legal frameworks. However, the implementation of counter-terrorism provisions needs to be improved, especially with respect to border control and international cooperation issues. Counter-terrorism legislation has been strengthened in Chile, Colombia, Paraguay and Peru. In the case of two States, shortfalls have been identified in the codification in domestic law of the terrorist offences. Paraguay recently adopted a comprehensive law against terrorism and has made significant improvements in its counter-terrorism and counter-financing of terrorism legislation. Most States have made progress in enhancing the capacity of their prosecution and judiciary services. International and regional organizations continue to play an active role in providing training and capacity-building in areas such as judicial cooperation, crime prevention and the promotion of human rights. Nine States have taken measures to suppress the recruitment of members of terrorist groups.

Counter-financing of terrorism

165. Eleven States are parties to the Terrorist Financing Convention, and six of these States have adequately criminalized the financing of terrorism. Although all States have adopted anti-money-laundering legislation, in most cases the relevant provisions contain shortfalls, including the exclusion of certain relevant non-financial businesses and professions from the list of entities obliged to submit reports on suspicious transactions to the financial intelligence unit and conduct customer due diligence and record-keeping. All States have set up financial intelligence units, and six of those units are operational. The remaining units operate at various levels of efficiency and effectiveness and, in some cases, will require technical assistance to develop their capacity to meet international standards. Seven States have extended the reporting obligation to include terrorist financing. The capacity to freeze without delay funds and assets linked to terrorism has improved in Colombia and Peru, but is not yet fully implemented in a number of other States. Although most States have legislation in place to regulate charitable organizations, legislation to prevent terrorism financing through non-profit organizations must still be enacted and effectively implemented in at least 10 States (12 in the previous survey). Peru and Uruguay have achieved improvements in this area. No State has completely reviewed its non-profit sector or conducted a risk assessment for terrorist financing. Many States have improved measures to address cash couriers by establishing declaration or disclosure systems for the reporting of cross-border movement of cash. Monitoring of alternative remittance systems continues to require improvement in most States, and regulation and monitoring of these systems remain challenges that must be addressed.

Law enforcement

166. Ten States have set up national agencies or offices (combined law agency groups) or high-level central offices to deal with counter-terrorism matters. States of the subregion have developed joint strategies and relationships among their various counter-terrorism agencies. However, States' reports do not contain information about the law enforcement special investigative techniques used or about specific exceptional criminal procedures in place. All States have set up mutual legal assistance arrangements to facilitate regional and international cooperation and information-sharing. Regional law enforcement mechanisms are also used. Cooperation, including through early-warning and intelligence, seems to be effective. Colombia, Chile, Paraguay and Peru have also enacted legislation giving their law enforcement authorities special investigative powers. All States have access to INTERPOL data, but in many cases the degree of efficiency of access and use of the data is not clear. Domestically, law enforcement agencies rely on relevant legislative provisions, memorandums of understanding and membership in national central bodies for cooperation, coordination and information-exchange. Five States are not yet a party to the Firearms Protocol, but almost all have introduced OAS legislation criminalizing the illicit manufacturing, possession and trafficking of small arms and light weapons, ammunition and explosives. In nine States, the relevant legislation appears comprehensive. Most Governments appear to be strongly committed to ensuring that law enforcement agencies respect human rights, although in some cases serious concerns have been raised about violations by security forces.

Border control

167. All States of the subregion have enacted immigration and passport laws to regulate immigration and travel-document security and have set up procedures for establishing the true identity of persons prior to the issuance of identity documents. All States issue machine-readable travel documents. Nine States have implemented effective screening procedures for travellers. Cooperation across regional borders, including the sharing of information and customs cooperation, has improved substantially. However, the effectiveness of controls could be significantly improved by increasing police patrols and acquiring detection equipment, particularly in light of the subregion's porous borders. Nine States have expressed their intention to implement the WCO SAFE Framework of Standards. During the period of assessment, seven States of the subregion reported on their implementation of the Programme of Action on Small Arms. Most States have implemented controls on the cross-border movement of small arms and light weapons and are working to improve prevention and detection effectiveness. However, the existence of large stocks of illegal small arms and light weapons utilized in past and present conflicts makes the control and elimination of arms trafficking a challenge for border control and other law enforcement authorities.

168. Controls on the cross-border movement of cash and bearer negotiable instruments continue to be improved in the region through training and awareness-raising workshops and exercises. Chile, Colombia, Peru and Uruguay have established effective controls to detect and prevent illicit movements at some border points. Five States received an ICAO USAP audit during 2009 and 2010. Most States have introduced laws establishing national aviation security authorities and implementing aviation security standards, but few have provided information on their implementation of the relevant annexes to the Convention on International Civil Aviation. Implementation of maritime security codes and standards has also improved, overall. Despite the progress achieved, border management continues to pose a challenge because of the porosity of borders and the existence of black-market trade routes. Ten States have ratified the 1951 Refugee Convention. All States have ratified the Trafficking in Persons Protocol, and all but two are parties to the Smuggling of Migrants Protocol, yet the implementation of laws to prevent and suppress the movement of terrorists across borders could be strengthened.

International cooperation

169. The subregion has achieved a reasonable level of ratification of the international counter-terrorism instruments. Chile has ratified 14 instruments, Brazil, Paraguay and Peru have ratified 13, and four States have ratified 12. Eight States have introduced adequate provisions on extradition and mutual legal assistance, and the remainder are making progress in this area. International cooperation has improved, including through the establishment of regional cooperation mechanisms. All States are members of OAS, which provides regional mechanisms for cooperation at the policy and operational levels. Only two States have not yet ratified the Inter-American Convention against Terrorism. Eleven States have ratified the Inter-American Convention on Mutual Assistance in Criminal Matters, and the remaining State is a signatory. Only two States have ratified the Inter-American Convention on Extradition, while five other States are signatories. There appears, however, to be a lack of coordination among some actors

involved in regional cooperation, especially in extradition and mutual legal assistance matters.

Recommendations for practical ways to implement the resolution

170. **States of the subregion should:**

(a) **Review criminal laws in order to ensure that offences in each of the designated categories are properly criminalized, and enact counter-terrorism legislative provisions, as necessary;**

(b) **Address deficiencies in the criminalization of terrorist financing and the freezing of terrorist assets, and strengthen the monitoring of the non-profit sector and alternative remittance systems;**

(c) **Strengthen the capacity of competent authorities to detect the illegal movement of cargo, cash and other monetary instruments.**

171. **The Counter-Terrorism Committee and its Executive Directorate should:**

(a) **Enhance technical assistance coordination with OAS/Inter-American Committee against Terrorism/Inter-American Drug Abuse Control Commission, the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime, the South American Financial Action Task Force on Money Laundering and donor States on a range of issues, including terrorist financing, counter-terrorism legal frameworks and border control;**

(b) **Consider future visits to the region in order to engage more actively with States.**

Europe and North America

South-Eastern Europe (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Montenegro, Romania, Serbia, Slovenia and the former Yugoslav Republic of Macedonia)

The Committee has visited three States of this subregion.

General comments

172. The terrorist threat to the States of South-Eastern Europe is considered to be relatively low, although Albania, Bosnia and Herzegovina, Hungary, Montenegro, Serbia and Slovenia have had occasion to use terrorism legislation to make arrests (2009 and 2010) and, in the case of Serbia, to bring criminals to justice on terrorism charges (2009). Most violence occurring in the subregion is linked to nationalist agendas. Authorities are, however, increasingly aware of the potential for religiously motivated radicalization and violent extremism.

173. States of the subregion confront many common challenges and constraints in their efforts to counter terrorism. Regional challenges include potential links between organized crime and terrorism, and vulnerabilities and weaknesses in the financial system, which could be exploited for terrorism financing. The subregion also serves as a major transit route for people, funds, arms and illicit goods.

174. Regional cooperation continues to improve, including through the establishment of new mechanisms for cooperation and the strengthening of existing mechanisms. States continue to develop their counter-terrorism capacity in all areas, including by updating their legislation and enhancing the capacity of their judicial, prosecutorial, financial and law enforcement bodies, very often as part of their European integration. Some States have developed national counter-terrorism strategies, but the level of implementation needs to be improved and more focus should be given to preventive aspects, including in particular addressing incitement to terrorism and the threat of radicalization leading to violent extremism.

175. Despite improvements in border management and considerable investment in infrastructure, human resources and regional cooperation, refugees and asylum-seekers from other parts of the world (especially conflict zones) continue to use South-Eastern Europe to enter the European continent. The fact that more States in adjacent regions are facing periods of instability raises the likelihood of incoming flows of immigrants and refugees from these regions and could pose a significant challenge to States of South-Eastern Europe.

Areas of assessment

Legislation

176. Most States of the subregion have enacted modern counter-terrorism legislation and put in place a comprehensive legal framework for the implementation of the resolution. Nonetheless, substantial shortfalls remain in four States, in the way terrorist offences are codified in domestic law. The capacity of prosecutorial and judicial authorities also still needs to be enhanced. Additionally, regional and subregional organizations need to continue to invest in the training of prosecutors and judges and in building States' capacity to bring terrorists to justice, notwithstanding a reduction in resources due to the global financial slowdown. In general, the States of the subregion have made good progress in the criminalization of recruitment to terrorism. During 2010, Slovenia and the former Yugoslav Republic of Macedonia ratified the Council of Europe Convention on the Prevention of Terrorism, thereby making all States of the subregion parties to this important regional instrument. The next step for most States is to adopt practical measures and a national preventive strategy, as the subregion remains vulnerable to terrorist recruitment. It is also believed that more training in the handling of counter-terrorism cases needs to be provided in the areas of international cooperation; sophisticated methods of investigation (including, as appropriate, the use of special investigative techniques) and human rights safeguards.

Counter-financing of terrorism

177. All States of the subregion are parties to the Terrorist Financing Convention, and all have adopted new anti-money-laundering and counter-financing of terrorism laws in recent years. All States include financing of terrorism as predicate offences and extend reporting obligations to financing of terrorism. These laws — most of which were drafted with technical assistance, some of which was generated as a follow-up to a Committee visit — criminalize money-laundering and financing of terrorism reasonably well, in accordance with international standards. States of the subregion continue to develop their regulatory systems in order to effectively implement the financial aspects of the resolution. For example: Montenegro, as part

of its new Strategy for the Fight against Terrorism, Money-Laundering and Terrorist Financing, adopted a national Action Plan for the implementation of the Strategy for the period 2009-2012, which focuses heavily on anti-money-laundering and counter-financing of terrorism. All States have established operational financial intelligence units, but their capacities vary. A good example in this respect is the Office for Money-Laundering Prevention of Slovenia, the designated financial intelligence unit. The Committee of Experts on the Evaluation of Anti-Money-Laundering Measures and the Financing of Terrorism (MONEYVAL) states that the Office is well structured and professional, appears to be operating effectively, and seems to have a good working relationship with the police and other relevant State agencies.

178. On the other hand, several visits conducted by the Committee in the subregion and evaluations conducted by other international and regional organizations show that the capacity of some financial intelligence units still needs to be enhanced. Non-profit organizations play an important role in the region. Although all States of the subregion have legislation in place to regulate non-profit organizations, the level of regulation and supervision is not high. No State has reviewed its non-profit sector or conducted a risk assessment for terrorist financing. Most States still lack a comprehensive system for freezing terrorist assets without delay. Legal measures to monitor the cross-border movement of cash for the purposes of preventing the financing of terrorism need to be strengthened, particularly as the use of cash as a basis for transactions is relatively high, thus making the region vulnerable.

Law enforcement

179. All States have enacted laws to guide the work of law enforcement and established bodies to coordinate their national counter-terrorism efforts. Recently, Bosnia and Herzegovina and Slovenia reformed their inter-agency cooperation mechanisms in order to enhance inter-agency cooperation. States of the region differ greatly in the way they have structured their counter-terrorism coordination bodies in terms of reporting, powers and structure. However, national cooperation and coordination in counter-terrorism efforts have posed challenges for all States of the subregion, and serious attempts have been made to streamline inter-agency cooperation. Six States have developed, either fully or partially, national counter-terrorism strategies. Croatia and Montenegro recently updated their national strategies. States need to make further efforts to ensure that these strategies cover all aspects of an effective counter-terrorism approach, and more work is needed in order to implement effectively the national strategies. Regional mechanisms for law enforcement cooperation, including early-warning and intelligence cooperation, have been established over the past few years and have substantially improved the level of regional cooperation. One key improvement has been the enhancement of Member States' capacities to conduct joint investigations. Of particular interest is continued law enforcement cooperation through the South-East European Cooperative Initiative Regional Centre for Combating Trans-Border Crime and by the recently established Police Cooperation Convention for Southeast Europe Secretariat. The States of the subregion are alert to their vulnerabilities to arms trafficking and have developed legislative frameworks to criminalize illicit trafficking and to control the production, sale and transfer of arms and explosives. Ratification of the Firearms Protocol is very high, with only one State not yet being a party.

Border control

180. All States of the subregion have issued machine-readable travel documents with enhanced security features during the past five years. Albania and Croatia are at an advanced stage of distributing biometric passports that comply with European Union and ICAO standards. Both States expect to complete this process in 2011. All States continue to make substantive progress with regard to border control as part of their European integration. Since 2009, all Member States of the subregion have signed working arrangements with Frontex, thereby improving the coordination of border management across the region. Cooperation in regional border management continues to improve, including through the establishment of joint patrols, sharing of information and regional mechanisms for border control and customs cooperation. All States but one have signed the Letter of Intent to implement the WCO SAFE Framework of Standards. Despite this progress, the subregion continues to face challenges in this respect, particularly as some internal borders are "green borders" and the quality of border management across the region varies. In three visited States, the border police did not possess equipment capable of detecting forged travel documents and did not have in place effective border surveillance mechanisms. In those States, formal border crossings were often found to be unconnected to central databases.

181. Most States of the subregion face challenges in implementing measures dealing with cash couriers. Most States also have difficulty in enforcing legislation to suppress arms trafficking, despite efforts by many to increase screening and inspection activities. Five States reported to the Programme of Action on Small Arms during 2010, and only one has not submitted a report at all. Overall, despite the progress achieved, the management of border control and customs still poses a challenge.

182. Progress has been made over recent years in efforts to prevent the abuse of refugee and asylum systems by terrorists. For example, in July 2009, Serbia adopted a National Strategy for Migration Management, following its adoption of a National Strategy for the Suppression of Illegal Migration in the Republic of Serbia for the Period 2009-2014. All States of the subregion have ratified the two Protocols to the Convention against Transnational Organized Crime, and the 1951 Refugee Convention. However, the flow of immigrants and refugees across the region from conflicts zones in the Middle East and Africa continues to pose a challenge to immigration authorities.

International cooperation

183. The level of ratification of the international counter-terrorism instruments is relatively high. In recent years, States of the subregion (e.g., Bosnia and Herzegovina, Bulgaria and Serbia) ratified some the most recent counter-terrorism instruments. All States have adequate provisions in place on mutual legal assistance, extradition and exchange of information. The level of cooperation with European States at all levels (judicial, prosecutorial and law enforcement) is high. International cooperation within the region has improved substantially. Since 2008, the Police Cooperation Convention for Southeast Europe Secretariat and the Regional Cooperation Council have played an important role in enhancing regional cooperation. Despite this progress, several Committee visits and workshops

conducted in the region have shown that regional cooperation in counter-terrorism matters requires further strengthening.

Recommendations for practical ways to implement the resolution

184. **States of the subregion should:**

(a) **Build the capacity of their anti-money-laundering and counter-financing of terrorism regimes, with a particular focus on financial intelligence units, the freezing of terrorists' funds and assets, and regulation of charitable organizations;**

(b) **Strengthen the capacity of regional cooperation mechanisms;**

(c) **Strengthen border security and effectively cooperate with respect to border control and customs services.**

185. **The Counter-Terrorism Committee and its Executive Directorate should:**

(a) **Continue their engagement with subregional cooperation mechanisms in order to strengthen such cooperation;**

(b) **Support States' efforts to adopt and implement comprehensive national strategies, with a particular focus on prevention of terrorism;**

(c) **Encourage States to strengthen border security and effectively cooperate in the areas of border control and customs services.**

Eastern Europe (Belarus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Republic of Moldova, Russian Federation, Slovakia and Ukraine)

The Committee has visited no State of this subregion.

General comments

186. The subregion is vulnerable to a range of terrorist threats. While low in most States, the terrorist threat is high in others, particularly in the Russian Federation, which has been the target of a number of terrorist attacks.

187. All States have legislative frameworks in place to deal with terrorism. However, there is a general need for improvement in information-sharing, cooperation, and coordination among law enforcement agencies at the national and international levels. Recent legislation in the Russian Federation has sought to achieve a more integrated approach among relevant counter-terrorism entities. There is a need for more effective implementation of resolution 1624 (2005), which encourages dialogue and understanding among religions and cultures in order to counter incitement to terrorist acts motivated by extremism and intolerance.

188. The subregion is located along major lines of communication connecting Western, Eastern, and South-Eastern Europe. This potentially increases the risks posed by organized crime and related activities of smuggling and trafficking in narcotics, arms and people, as well as money-laundering.

Areas of assessment

Legislation

189. Most States of the subregion have codified the international terrorist offences. Almost all have provisions in place for the prohibition of the use of their territory to commit or prepare for terrorist acts. Moreover, their courts have jurisdiction over their own nationals committing offences abroad and foreign nationals found on their territory. Most States are considered to have comprehensive and coherent national legal frameworks in place. In 2009, the Russian Federation strengthened penal sanctions for assisting or participating in terrorist activity (including recruitment) and introduced a draft law to strengthen criminal liability for terrorism-related offences. The Russian Federation has also adopted legislation to protect the rights of victims of terrorism and has introduced measures concerned with the conditions of detention for individuals suspected of committing a terrorist act. The criminal codes of Belarus, the Russian Federation and Ukraine contain articles establishing jurisdiction to try terrorist offences committed outside the State's territory by its nationals (whether or not currently within the State's territory), as well as offences committed outside the State's territory by foreign nationals currently within the State. These codes also provide for the principle *aut dedere aut judicare*. In 2009, Poland adopted the Governmental Programme for the Protection of Cyberspace in Poland, 2009-2011, and also adopted a draft law amending the Act on Counteracting Introduction into Financial Circulation of Property Values Derived from Illegal or Undisclosed Sources, as well as a draft law amending the Act of Crisis Management. There have been a number of concerns raised by international mechanisms with regard to human rights in the context of counter-terrorism measures undertaken in the subregion.

Counter-financing of terrorism

190. All States are parties to the Terrorist Financing Convention, and all have introduced anti-money-laundering and counter-financing of terrorism legislation and established financial intelligence units that are members of the Egmont Group. East European States have continued to strengthen their anti-money-laundering and counter-financing of terrorism legislation and practices. The Russian Federation has introduced legislation on the regulation of non-profit organizations and amended its anti-money-laundering and counter-financing of terrorism to extend the concept of "financing of terrorism" to the crimes contained in the Criminal Code pertaining to the illegal acquisition of nuclear and radioactive substances. Belarus, the Russian Federation and Ukraine have all established fully operational financial intelligence units. In 2010, Belarus and Ukraine adopted amendments to their anti-money-laundering and counter-financing of terrorism laws on client identification, customer due diligence, record-keeping, ascertaining beneficial ownership, and suspicious transactions, and also extended oversight criteria for remitting money through the State postal system. In 2009, the Russian Federation increased the participation of, and coordination among, organs involved in financial monitoring, by forming an inter-administrative committee composed of high-level representatives of relevant ministries, the Bank of Russia, the Parliament and the Office of the Prosecutor-General.

191. In December 2009, Slovakia amended its Penal Code to establish the autonomous criminal offence of terrorist financing. In 2009, Poland amended its

Penal Code by adopting a new Act on Counteracting Money-Laundering and Terrorism Financing, thereby giving greater coverage to anti-money-laundering and counter-financing of terrorism. In October 2009, Poland established an inter-ministerial advisory body against terrorist financing in the Office of the Inspector General for Financial Information. The International Sanctions Act of Estonia, which provides for financial sanctions, came into force on 5 October 2010. In 2009, Hungary clarified the legal framework for its non-profit sector by ruling that all non-profit organizations must register as non-profit business associations. In 2010, Hungary introduced the Law on Electronic Registration, which provides for the electronic registration of foundations and allows all relevant authorities to access the register; and established a procedure for the publication of "sanctions" resolutions of the Security Council.

192. The six States of the subregion that are members of the European Union use the declaration system on the control of cash entering or leaving the Community introduced by the adoption of regulation (EC) No. 1889/2005 of the European Parliament and the Council of 26 October 2005.

Law enforcement

193. In order to respond effectively to the asymmetric nature of the terrorist threat, it is essential to strengthen cooperation by establishing continuous exchange of information among law enforcement, border security and intelligence agencies. Most States of the subregion have put in place arrangements for cooperation and coordination among domestic agencies. In October 2009, the President of the Russian Federation approved the Conceptual Framework for Counter-Terrorism, which establishes a national counter-terrorism mechanism to improve the interaction of State counter-terrorism agencies. Furthermore, in January 2011, a draft bill passed first reading in the Duma of the Russian Federation, defining three levels of terrorist threat and delineating the responsibilities and coordination among counter-terrorism agencies accordingly. Hungary established its first Counter-Terrorism Centre on 1 September 2010. The Centre will analyse and evaluate the status of terrorist threats to the country, protect the President and the Prime Minister and detect acts of terrorism and kidnappings. There is generally little information available about oversight or accountability of law enforcement agencies. Most States have introduced legislation to control the production, sale and transfer of arms, and have criminalized, to some extent, the trafficking of weapons and explosives. Six States are parties to the Firearms Protocol. In 2010, the Russian Federation introduced comprehensive legislation to strengthen controls on the import/export and circulation of weapons and explosives, assigning overall responsibility for the supervision, investigation and implementation of these measures to the Office of the Prosecutor-General.

Border Control

194. All States of the subregion issue machine-readable travel documents. Estonia introduced fingerprint biometrics in June 2009 and fingerprint verification against "chip" images in December 2009. Belarus, the Russian Federation and Ukraine issue machine-readable travel documents in compliance with ICAO specifications. Hungary has been issuing e-passports with biometric data since 2006 and e-passports with fingerprints since 2009. As co-host, with Poland, of the 2012 Union of European Football Associations European Football Championship, Ukraine is

expanding access to the INTERPOL Stolen and Lost Travel Documents database to airports and other border control points.

195. Recognizing the importance of the subregion as a "transit" area, most States have introduced legislation on asylum, movement of travellers and the prevention and suppression of the cross-border movement of terrorists. All States, moreover, are either signatories or parties to the Convention on Transnational Organized Crime and its supplementing Trafficking in Persons and Smuggling of Migrants Protocols, and have ratified the 1951 Refugee Convention. UNHCR provided training for relevant officials of Belarus and Ukraine aimed at ensuring effective and fair implementation of the provisions on determining refugee status set forth in the 1951 Convention. In 2010, Poland adopted a six-year programme to retrain its border guards to meet current border challenges.

196. All States but one of the subregion have signed the Letter of Intent to implement the WCO SAFE Framework of Standards. In 2010, the Russian Federation amended a series of legislative acts to establish administrative and criminal responsibility for transportation security and unlawful interference with transport operations and infrastructure. ICAO completed security audits of airport and aviation security in Belarus, Estonia, Hungary, Latvia, Lithuania, Poland and the Russian Federation. The Russian Federation reported that it had introduced measures to protect vessels and port facilities against terrorist attacks, as set out in the provisions of the ISPS Code relating to training, notification and signals in emergency situations. Belarus, the Russian Federation and Ukraine are making progress in implementing standards and practices to ensure cargo security. The maritime security of the six European Union member States is being monitored and assessed by the European Maritime Safety Agency, which inspects classification societies, assesses port State control systems, tracks problem ships and safeguards the standards of onboard equipment. The Agency monitors more than 20,000 vessels across Europe and worldwide.

197. Most States of the subregion have introduced laws regulating the import and export of weapons. In 2010, all seven States submitted national reports to the Programme of Action on Small Arms.

198. Belarus, the Russian Federation and Ukraine have introduced measures to implement declaration and inspection systems for cash and other monetary instruments crossing their international borders, although further action may be required to ensure that customs officers have the necessary resources to detect and prevent their illicit movement across their borders.

International cooperation

199. All States have ratified 13 or more of the international counter-terrorism instruments. Latvia is the only State in the subregion that is a party to all 16 instruments, and Estonia is a party to 15. Almost all States have introduced early warning systems and arrangements for the exchange of information. Almost all States also have arrangements for mutual legal assistance in criminal matters and extradition. Seven States are part of the Schengen Area. In 2009, the Russian Federation ratified the Treaty on Anti-Money-Laundering and Counter-Financing of Terrorism between CIS member States. It has also signed 51 agreements with the financial intelligence units of foreign States to exchange information on transactions linked to the financing of terrorism. The criminal procedure codes of Belarus, the

Russian Federation and Ukraine all contain provisions relating to mutual legal assistance and extradition. In 2009, the Russian Federation amended the grounds for refusing a request for extradition by including the requirement of dual criminality. The Russian Federation and the States bordering the Caspian Sea signed a draft agreement on cooperation in the subregion on countering possible terrorist threats.

200. Belarus and the Russian Federation regularly participate in anti-terrorist exercises conducted by CSTO. The Russian Federation also takes part in anti-terrorist exercises organized by the Shanghai Cooperation Organization. The Russian Federation and Ukraine have participated in the North Atlantic Treaty Organization Operation Active Endeavour, which involves the patrolling and monitoring of maritime traffic in order to deter terrorist activity in the Mediterranean basin. Ukraine has signalled its readiness to exchange information with other States regarding threats arising from the activities, plans and intentions of terrorist and extremist organizations and groups. In December 2010, member States of the CIS Anti-Terrorism Centre signed an agreement to provide competent bodies with access to a specialized database containing information on persons appearing on the CIS inter-State "wanted" list. Moreover, the Federal Security Service of the Russian Federation, within the framework of the Meeting of Heads of Special Services, Security Agencies and Law Enforcement Organizations, has been actively developing an International Counter-Terrorism Database, linking 20 States and two international organizations, which communicates confidential information through a controlled-access website.

201. At the international level, Poland has signed bilateral agreements on mutual legal assistance with several States, including France and Germany, and hosts a special police training centre. Within the framework of subregional efforts to combat organized crime, Germany, Poland, the Russian Federation, the Baltic States and the Scandinavian States set up an expert group on organized crime.

Recommendations for practical ways to implement the resolution

202. **States of the subregion should:**

(a) Develop more integrated approaches and more effective mechanisms for ensuring robust cooperation and exchange of intelligence information among relevant counter-terrorism agencies, at the national and international levels;

(b) Tighten controls/monitoring of the physical movement of cash and bearer negotiable instruments across borders, as well as of remittance systems (both formal and informal);

(c) Enhance their capacity to freeze terrorist funds and assets without delay and improve customer due diligence.

203. **The Counter-Terrorism Committee and its Executive Directorate should:**

(a) Engage in dialogue with Belarus, the Russian Federation and Ukraine to organize visits to these three States during the period 2012-2013 in order to identify any areas of implementation that require attention;

(b) Engage more intensively with relevant regional organizations, including the CIS Anti-Terrorism Centre, CSTO and the Eurasian Group on Combating Money-Laundering and the Financing of Terrorism, in order to

focus on activities aimed at the implementation of resolution 1373 (2001), and similarly, continue its robust cooperation with the European Union and its associated entities;

(c) Encourage States to ensure that counter-terrorism measures are conducted in compliance with human rights obligations, and establish effective mechanisms for oversight and accountability, as appropriate.

Western European, North American and other States (Andorra, Australia, Austria, Belgium, Canada, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Israel, Italy, Liechtenstein, Luxembourg, Malta, Monaco, Netherlands, New Zealand, Norway, Portugal, San Marino, Spain, Sweden, Switzerland, Turkey, United Kingdom of Great Britain and Northern Ireland and United States of America)

The Committee has visited nine States of this subregion.

General comments

204. The terrorist threat to several States of the subregion is considered to be low, but other States have suffered a significant degree of terrorism over a period of more than 30 years. Several States have recently been the victims of successful and thwarted terrorist attacks. This continued terrorist threat derives from a range of domestic nationalist and politically inspired groups, including separatist organizations, left- and right-wing groups and groups radicalized to support a certain political issue (e.g., animal rights protection and anti-globalization), as well as transnational organizations such as Al-Qaida. Moreover, many States identify the risk of religious-based violent extremism, which may lead to the development of home-grown terrorists and attract sleeper-cells or independent terrorist actors. The threat to some States of the subregion is believed to remain high. Despite the best efforts of law enforcement and domestic security structures in these target States, the risk of further terrorist incidents remains. Moreover, many States are experiencing an increasing threat from individuals within their territories who plan, support and finance terrorist attacks in areas of conflict.

205. The States of the subregion are very alert to the terrorist threats they face and have invested vast resources in the expansion of legal frameworks, the establishment and enhancement of counter-terrorism institutions, and efforts to strengthen the capacities of law enforcement and intelligence agencies. Most States employ sophisticated technologies, information-sharing mechanisms and comprehensive terrorism-prevention methods to protect their interests. However, vulnerabilities remain in many States' transportation systems (especially critical infrastructure). Many States also invest in social programmes to better understand and prevent radicalization and the potential recruitment to terrorism, and all have become engaged, to some degree, in the counter-terrorism dialogue. At the same time, the question of ensuring the compliance of counter-terrorism measures with human rights obligations continues to be a major subject of debate in the subregion.

206. The States of the subregion are very aware of the threat of terrorism financing and alert to the associated risks. States with large financial sectors are especially

alert to vulnerabilities that might be exploited by criminal and terrorist groups. Most such States are members of international and regional bodies with counter-terrorism mandates, including the Council of Europe, the European Union and its various subsidiary bodies (the European Union Judicial Cooperation Unit (Eurojust), Europol and Frontex), INTERPOL and NATO. European Union member States are parties to a range of counter-terrorism instruments and conventions, and NATO allies and partners have developed a new strategy that cites terrorism, terrorist financing and cyberattacks as threats. However, the subregion continues to face numerous challenges and risks, such as transnational organized crime and financial crime, which may or may not be directly linked to the terrorist threat. Many States will also continue to grapple with issues such as radicalization, violent extremism and the movement of terrorists across borders.

Areas of assessment

Legislation

207. The 16 States of the subregion that are members of the European Union have all ratified the Council of Europe Convention on the Prevention of Terrorism, adhere to European Union counter-terrorism instruments, and participate in the Council of Europe Committee of Experts on Terrorism (CODEXTER) process, as well as in the work of Eurojust. Most have completed the transposition into domestic law of European Union instruments. Non-European Union States work independently to develop counter-terrorism legislative frameworks and incorporate into domestic law the offences set forth in the international counter-terrorism instruments. Most States have adopted comprehensive counter-terrorism laws that adequately address the current terrorist risks to the subregion and take account of the threat levels in each State. Most have clearly defined terrorist acts and continue to add counter-terrorism offences to their penal and criminal codes. Most States are able to bring terrorists to justice and have the political will to do so. Australia, France, Germany, Greece, the Netherlands, Turkey, the United Kingdom, the United States and several other States have successfully tried and convicted persons for terrorist crimes. Almost all States have legislation in place to prohibit the use of their territory for the preparation and commission of terrorist acts, and most have criminalized the provision of safe haven to terrorists.

208. All States have made progress in enhancing the capacities of their prosecution and judiciary. However, only 20 States have adopted practical measures and a national strategy to suppress recruitment by terrorist groups. In view of the problems faced by many States of the subregion with respect to the recruitment of terrorists, more efforts should be made to build the capacity of prosecution and law enforcement services in this area. Australia, Denmark, France, the Netherlands, New Zealand, Norway, the United Kingdom and the United States all have departments, dependencies and/or overseas territories, each of which has a differing degree of autonomy and capacity to determine its own legislative framework for counter-terrorism. Where possible, Governments work with their territories to encourage them to draft the appropriate domestic counter-terrorism laws, but improvements to these frameworks are needed in many cases. International human rights mechanisms have raised concerns about the use of special counter-terrorism measures in several States and about problems with immigration and asylum procedures. States should ensure that implementation of counter-terrorism legislation fully respects human rights.

Counter-financing of terrorism

209. All 30 States of the subregion are parties to the Terrorist Financing Convention and have criminalized the financing of terrorism. All have established financial intelligence units that are members of the Egmont Group. Twenty-three States are members of the Financial Action Task Force on Money-Laundering. Those States that are members of the European Union also implement European Union legislation on Anti-Money-Laundering and Counter-Financing of Terrorism and have adopted national legislation that brings them into line with the relevant European Union Directives. All States of the subregion have introduced anti-money-laundering laws and most cite terrorism financing as a predicate offence to money-laundering. All States have extended the reporting obligation to include terrorist financing, but some States still need to extend the reporting obligation to include relevant non-financial businesses and professionals such as lawyers, accountants, trust and company service providers, real estate professionals, and dealers in precious metals and stones. All States have established listed and well-publicized penalties for non-compliance.

210. All but two States of the subregion have introduced legislation to monitor the cross-border movement of cash, through either a declaration or disclosure system, but several States need to improve their systems and ensure that they address bearer negotiable instruments, as well as cash. For those States that are members of the European Union, a declaration system was put into place through the adoption of regulation (EC) No. 1889/2005 of the European Parliament and of the Council of 26 October 2005, on control of cash entering or leaving the Community.

211. All States of this subregion have established operational financial intelligence units, although some are still working to improve capacity. The financial intelligence unit of Greece, for example, has made significant efforts to remedy its personnel shortfall. The number of staff increased from 19 in 2005 to 28 by late 2009, and a further 10 staff members will be seconded from several other agencies. The staffing of the financial intelligence unit of New Zealand was expanded from 9 to 21 in early 2011.

212. Although States of the subregion function at a high level with regard to counter-financing of terrorism in general, many need to devote far greater attention to developing effective measures to freeze funds and assets linked to terrorism. Few of the European Union member States have developed separate national mechanisms to supplement European Union regulation. Such mechanisms are needed to give effect to requests for asset freezing and designations by other jurisdictions and to enable the freezing, without delay, of funds of European citizens and residents. Nearly all States have procedures in place for appealing against preventive freezing measures, although the effectiveness of those procedures could be improved in some cases. Most States need to improve their regulation of alternative remittance systems. Australia has taken steps to do so by clarifying the definition of "designated remittance arrangement" in its February 2010 Crimes Legislation Amendment (Serious Organized Crime) Act (No. 2) 2010 and by issuing a discussion paper providing for a high-level overview of proposed reforms to strengthen regulation of the remittance sector. Most States also need to improve their legislation and capacities to prevent terrorist financing through charitable organizations. Many States have not reviewed their non-profit sectors for terrorism financing risks, but the United Kingdom, in particular, has developed mechanisms for assessing and protecting this sector and, through the International Programme of

the Charity Commission, for securing operational outreach internationally, as well as helping to build capacity in other parts of the world.

Law enforcement

213. The States that face a high level of terrorist threat are particularly alert and have taken steps to expand the resources and capacities of their law enforcement and intelligence agencies. Not every State has a stand-alone counter-terrorism strategy, but all have developed a range of counter-terrorism policies and practices, and established a national agency or centre, with a legislative mandate to guide it in its work, to manage counter-terrorism measures. In Italy, for example, the Political-Military Unit established by the Office of the Prime Minister is comprised of senior representatives of all Government departments and agencies responsible for countering terrorism, and has wide and comprehensive functions. Almost every State has introduced effective mechanisms to enable law enforcement agencies to tackle terrorism. All States have developed the necessary institutions and inter-agency relationships, and many have established joint task forces and fusion centres to share intelligence, plan joint operations and ensure coordinated all-source analysis. Israel, for example, has established an inter-agency fusion centre, an inter-agency task force for pursuing financial crimes and a task force against terrorism. Germany has established a joint counter-terrorism centre that enables several key counter-terrorism agencies to work at a centralized site to exchange information in real time and coordinate analysis and operations.

214. Intelligence and security services in most States are well equipped to investigate terrorist activity and to coordinate with the relevant law enforcement agencies. All States use INTERPOL data, and the European Union member States cooperate on investigations and operations through Europol. Additional regional and bilateral mechanisms for law enforcement cooperation, including early warning and intelligence cooperation, have been established. Many States have also developed law enforcement programmes to counter radicalization. Turkey has launched the National Unity Project to address the social and economic inequalities in Turkish society that purportedly fuel Kurdish dissent and Kurdish Workers Party (PKK) recruitment. The Netherlands set aside more than €400 million to support a four-year action plan, begun in 2007, to prevent radicalization. Many Governments of the subregion have introduced neighbourhood policing programmes and outreach programmes, and there is cooperation with civil society. However, international human rights mechanisms have raised a number of concerns over violations allegedly committed by law enforcement and intelligence bodies in the course of investigations and interrogation.

215. All States have introduced legislation regulating the production, sale and transfer of arms and explosives. Further steps need to be taken, however, in criminalizing illicit manufacturing, possession and trafficking in small arms and light weapons, as well as explosives. Ratification of the Firearms Protocol is weak, with only seven States having fully ratified the instrument. However, 13 States have signed the Convention since the previous survey.

Border control

216. Although States of the subregion have taken steps to reduce their vulnerability to terrorist mobility and arming, the risk remains that terrorist operatives and

supporters may enter the territories of those States illegally and may be able to procure the materials necessary for a terrorist attack by means of a criminal network. Those States have attempted to minimize this threat through a range of border-control measures. All States are in compliance with machine-readable travel document requirements and most have controls in place for the issuance of travel documents. Greece, for example, has established a state-of-the-art agency and system for the production and issuance of biometric machine-readable travel documents, as well as identification cards for Greek law enforcement officials. The United States has upgraded its passports to make their forgery/falsification more difficult and has introduced a tamper-resistant visa.

217. Border control is conducted at a high level of technical and technological sophistication. The United Kingdom makes extensive use of closed-circuit television (as do several other States) and the United States uses biometric technology to verify the identity of visitors. Border posts in most States have real-time link-ups to secure national databases, INTERPOL databases and international watch lists. Regional border management generally functions well through the use of practices such as the use of joint patrols, sharing of information and regional mechanisms for border control and customs cooperation. The Schengen Agreement covers 17 States of the subregion and provides for open borders between these States. (Two Schengen members no longer have external borders to guard.) Although this greatly facilitates integration, thereby improving the conditions for trade and the free movement of legitimate persons, it could also facilitate the movement of illicit goods and people across a broad geographical area. Schengen members have, however, introduced a range of measures to address this challenge. These include the Schengen Information System, an international computerized database that allows States to store and share information on aliens, asylum-seekers, criminals and those under surveillance by State security agencies, and an "opt-out" mechanism that allows members temporarily to re-establish border controls for national security reasons.

218. Most States have taken practical steps to identify and halt cash-courier operations and can implement legislation relating to the illicit cross-border movement of cash and bearer negotiable instruments. Canada and the United States signed a memorandum of understanding in November 2010 to track the movement of illicit currency by sharing data on currency seized at the border. This memorandum of understanding will significantly enhance the ability of law enforcement officers of both States to investigate and track cash couriers and disrupt the flow of funds that support the activities of criminals and terrorists.

219. All States have taken steps to ensure cargo security, maritime security and aviation security to a high degree. Most States implement the WCO SAFE Framework of Standards and are compliant with ICAO requirements. ICAO has audited most States of the subregion. The maritime security of the 17 European Union member States is monitored and assessed by the European Maritime Safety Agency, which inspects classifications, assesses port State control systems, tracks problem ships, and safeguards the standards of onboard equipment. The Agency monitors over 20,000 vessels across Europe and worldwide. Most States of the subregion regularly update their security systems to reflect changing international standards.

220. A remaining challenge is to enforce practical measures to identify and suppress the trafficking of arms and weapons. Although 23 States have submitted reports to the Programme of Action on Small Arms since the previous survey, many States could further strengthen their efforts in this regard. Much progress has been made in preventing the abuse of refugee and asylum systems by terrorists. All States have adopted legislation aimed at bringing asylum procedures into line with international standards, and all but three are parties to the 1951 Refugee Convention. Only a few States have yet to become parties to the Trafficking in Persons and Smuggling of Migrants Protocols. Concerns have been raised by United Nations and regional human rights mechanisms regarding the failure of some States strictly to observe the principle of non-refoulement.

International cooperation

221. States of the subregion cooperate well with regional and international partners to reduce the risk of, and their vulnerabilities to terrorism. They exchange threat and warnings intelligence, share operational information, and conduct joint training and other exercises within bilateral and multilateral contexts. Most States have in place a robust legal framework to support mutual legal assistance and extradition requests, particularly within the framework of the European Union. All have procedures in place for exchange of information, including by means of their financial intelligence units. The European Union member States have developed sophisticated mechanisms for cooperation among themselves and with third States, including Eurojust and Europol. The level of ratification of the international counter-terrorism instruments is relatively high, and four States of the subregion have ratified all 16 instruments.

Recommendations for practical ways to implement the resolution

222. States of the subregion should:

(a) Ensure that customs officers have the necessary practical measures and resources in place to detect and prevent the cross-border movement of currency and bearer negotiable instruments and to detect and prevent the smuggling of arms and weapons;

(b) Enhance their capacity to freeze terrorist funds and assets without delay, by developing national "freezing" mechanisms to supplement regional frameworks;

(c) Further develop programmes to counter radicalization and recruitment to terrorism.

223. The Counter-Terrorism Committee and its Executive Directorate should:

(a) Encourage States to strengthen the capacities of their anti-money-laundering and counter-financing of terrorism regimes, with a particular focus on the regulation of alternative remittance systems and charitable organizations;

(b) Encourage States to adopt practical measures and national strategies to suppress recruitment by terrorist groups, while respecting relevant human rights obligations;

(c) With the aim of furthering international cooperation, encourage States to share best practices and technical expertise with other States, as widely as possible.

III. Assessment by thematic area

224. The present section of the survey provides the general standards and recommended practices that should be in place to give effect to the provisions of the resolution and presents general global trends in the implementation of the resolution in key thematic areas. This thematic assessment provides a more holistic picture of how the international community, in the broadest sense, has progressed in dealing with the challenge of terrorism since the adoption of the resolution. The analysis below shows that efforts should be made to more effectively implement provisions of resolution 1373 (2001) aimed at establishing comprehensive counter-terrorism legislation, preventing and suppressing terrorist financing, developing law enforcement infrastructure, ensuring border control and advancing international cooperation.

A. Legislation

225. In order to implement Security Council resolution 1373 (2001) effectively, it is essential to establish comprehensive counter-terrorism legislation. The intent of the resolution is that States, by enacting specific counter-terrorism legal provisions, should no longer need to resort to vague legal provisions, ad hoc methods, or customized interpretations in order to prosecute terrorist acts. Instead, States should establish a clear, complete and consistent legal framework that specifies terrorist acts as serious criminal offences, penalizes such acts according to their seriousness, establishes jurisdiction, and helps the courts bring terrorists to justice. As stated in resolution 1963 (2010), this framework should in turn provide the basis for the development of a comprehensive, integrated national counter-terrorism strategy that is rooted in a legal approach and ensures the rule of law (especially through the inclusion of fair treatment in the investigation and prosecution of terrorists, thereby protecting human rights) while also countering terrorism as effectively as possible.

226. Although most States have taken significant steps towards the development of such a legal framework, progress has been more limited in certain regions. Most States of the Western European, Eastern European, and Central Asian and the Caucasus subregions have introduced comprehensive counter-terrorism legislation. In the regions where progress is still required, the degree to which the offences have been fully codified varies widely and continues to require attention. There have been improvements in the criminalization of terrorist recruitment, although information on the strategies and resources put in place to suppress recruitment by terrorist groups is generally lacking.

227. Areas that require attention include legislative measures on criminalizing safe havens in certain regions. The Committee and its Executive Directorate addressed this issue in a general briefing to Member States in 2010. In accordance with paragraph 2 (c) of resolution 1373 (2001), States are obliged to deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens. States are also required to prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens (para. 2 (d)).

228. States should criminalize the harbouring of and hindering the apprehension of any person, where they have knowledge that such a person has committed or is

planning to commit a terrorist act or is a member of a terrorist group. Additional measures include laws criminalizing preparatory acts, including planning, aiding and abetting aimed at the commission of terrorist offences against another State or its citizens.

229. These basic legislative measures must be supported by adequate jurisdiction to ensure that domestic courts are competent to deal with potential offenders. This includes the obligation of States to extradite or prosecute in accordance with the applicable international counter-terrorism instruments to which they are parties. States should adopt a comprehensive approach in denying safe haven, as several interrelated measures are required to ensure effectiveness. These include legislative, law enforcement, border control, refugee and asylum measures. Immigration and border control agencies should employ adequate procedures for screening refugees aimed at identifying terrorists, and should also be given the capacity to identify and pursue those who are in the State illegally.

230. Resolution 1373 (2001) requires all Member States to bring terrorists to justice. However, country visits and other activities of the Committee have shown that this requirement poses a major challenge for States' criminal justice systems. Most visited States continue to experience difficulties in their efforts to introduce legal provisions on effective investigative methods and criminal procedures, international cooperation, and human rights safeguards. In their efforts to develop a comprehensive legal framework, States should take steps to enhance the capacities of the prosecution and the judiciary. Many States continue to face challenges in their efforts to staff prosecution services and the judiciary with skilled prosecutors and judges and to provide them with the necessary technical resources and training.

231. The prosecution of counter-terrorism cases relies on specific skills and expertise, and States' prosecutorial and judicial authorities have been forced to develop ways to deal with the increasing complexity of such cases, which often pose unusual and challenging case-management issues. Among the main challenges is the use of classified information as evidence (including admissibility as evidence), investigation methods, international cooperation, protection of witnesses, the use of sophisticated technology by terrorists, and links between terrorism and other forms of criminality.

232. The Committee, recognizing these issues, organized in December 2010 an innovative seminar on the theme "Bringing terrorists to justice". The seminar, held at United Nations Headquarters, enabled the participating prosecutors to identify common challenges in prosecuting terrorist offences and to share successes in effectively bringing terrorists to justice while respecting the rule of law and human rights. The Committee was also able to build upon the experience and good practices employed by participating prosecutors by sharing and promoting them in its dialogue with international, regional and subregional organizations and Member States. The Committee, through its Executive Directorate, increasingly interacts with practitioners to implement resolution 1373 (2001). It has used the "convening" power of the United Nations to enable prosecutors and law enforcement officials involved in counter-terrorism to discuss common challenges, exchange good practices and increase their regional cooperation. (The Committee's engagement with member States of SAARC is an example in this regard.) The convening of these practitioners' seminars, with the support of donor States and organizations,

allows the sharing of expertise, facilitates capacity-building, and provides a forum in which practitioners can interact and network.

Recommendations for practical ways to implement the resolution

233. **Member States should:**

(a) Promote the adoption of comprehensive and integrated national counter-terrorism legal frameworks, in accordance with the rule of law and human rights obligations, and enhance national capacities to investigate, prosecute and adjudicate terrorist acts, including by requesting capacity-building assistance as needed;

(b) Promote criminalization of the terrorism offences set forth in the international counter-terrorism instruments;

(c) Take steps to criminalize the provision of safe haven and preparatory activities to commit terrorist acts.

234. **The Counter-Terrorism Committee and its Executive Directorate should:**

(a) Continue to facilitate (notably through events such as global and regional practitioners seminars) the identification, sharing and dissemination of good practices and the forming of networks, in close coordination with donor States, the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime and other donor organizations;

(b) Encourage States to adopt the necessary counter-terrorism legal framework and to provide the relevant officials with training necessary to implement the legal framework (e.g., in areas such as investigation, prosecution and international cooperation) and to seek the support of technical assistance providers, as needed, to this end;

(c) Facilitate capacity-building of States' prosecution services and judiciary, as necessary.

B. Counter-financing of terrorism

235. Counter-financing of terrorism lies at the heart of resolution 1373 (2001), which requires States to take a number of legal, institutional and practical measures to prevent and suppress terrorist financing. Although there has been some progress in this area, States continue to face a number of challenges, including new ones. Because of the continuous development of the financial sector, States are confronted with various threats and vulnerabilities, such as Internet-based systems, new payment methods, development in wire transfers and electronic payments. The potential misuse of charities and the use of cash couriers for terrorism purposes also remain sources of concern. States need to ensure that their legislation and guidance are sufficiently flexible and robust to cover new threats and maintain their preventive function.

236. The obligations of States in relation to the criminalization of terrorist financing are set forth in resolution 1373 (2001) and in the International Convention for the Suppression of the Financing of Terrorism. Compliance with these obligations requires the establishment of a comprehensive legal regime. Both the resolution and

the Convention provide that in order for the terrorist financing offence to exist, the funds intended to finance the terrorist act need not be the proceeds of crime, and that the terrorist act that the funds were intended to finance does not actually need to have taken place or even to have been attempted. The Convention also allows for prosecution of the financing of all terrorist acts set forth in the international counter-terrorism instruments. Although there has been some progress in criminalizing the offence, a significant number of States have yet to introduce a terrorism financing offence that fully conforms with the Convention or the resolution. Moreover, most States lack sufficient expertise and experience in the investigation and prosecution of the offence.

237. Freezing of terrorist assets is a key element of resolution 1373 (2001) and must be understood as a preventive measure. States should take immediate action to identify the relevant individuals and entities, as well as all their associated funds and assets, and to freeze those funds and assets without prior notice to the person or entity in order to prevent the assets from being moved. In implementing the relevant provisions of the resolution, States must also pay attention to due process. They should have in place legal provisions or procedures to allow a person or entity whose assets have been frozen to challenge the decision before a court or an independent administrative body. States should also have in place provisions to allow for humanitarian exemptions where assets are frozen pursuant to the resolution. A few States, including some visited States, have put in place impressive mechanisms to implement effectively this challenging provision of the resolution. They have also reported that the freezing of funds and assets is a valuable tool in preventing acts of terrorism. However, the vast majority of States have yet to make effective provision for this part of the resolution, relying for the most part on the "seizing" provisions of their criminal procedure codes to implement the resolution. This may not meet the requirement to "freeze without delay", since criminal provisions can be triggered only after a criminal investigation has begun.

238. Another area in which many States continue to face considerable challenges is that of customer due diligence. Most States have established in their legislation customer due diligence obligations and reporting mechanisms that oblige financial institutions and certain professionals to identify their customers and report suspicious activities to the authorities. However, challenges remain, with regard in particular to the implementation of a risk-based approach. An effective risk-based approach focuses on the development of sound, global financial markets.

239. Financial inclusion and financial integrity are complementary objectives. The former adds value to the anti-money-laundering and counter-financing of terrorism regime by helping to lower the amount of cash in economies and by promoting the use of the regulated financial service sector, which is the basis of a sound and effective anti-money-laundering and counter-financing of terrorism regime.

240. The emergence of new payment methods is a powerful argument for promoting financial inclusion. In recent years, there has been a significant rise in the number of transactions and the volume of funds moving through new payment methods, such as mobile money transfers and prepaid cards. New payment methods present a risk of terrorism financing because they can facilitate anonymous transactions and cross-border transfer of funds. Cases of money-laundering and financing of terrorism involving the use of new payment methods have been identified. However, States are experiencing difficulties in developing appropriate legislation and regulatory

systems for these payment methods, which are evolving at an increasingly rapid pace. The investigation and prosecution of cases involving new payment methods requires a high level of technical skill and speedy action by the authorities. They also require enhanced forms of international cooperation, especially in the preservation of electronic evidence. In this regard, the Group of Eight 24/7 Network for Data Preservation and the 24/7 Network, established by article 35 of the Council of Europe Convention on Cybercrime, represent good practices.

241. Many informal money or value transfer systems — such as *hawala*, *hundi* and *fei-chien* — operate across borders and outside the domestic legal framework. Many overseas workers rely on such services for low-cost and rapid remittance of funds to their families. States may suspect that such systems are used for terrorist financing, but lack a clear understanding of their scope. It is therefore important to increase transparency in this sector and to take steps to reduce this risk, in accordance with international standards and best practices. Governments' responses, however, should be flexible, effective and proportionate to the risk of abuse for the purposes of terrorist financing. In many parts of the world, such systems are vital to those who cannot afford the services of the formal financial system. They are also useful for cash-based economies in which the banking sector is not highly developed.

242. The monitoring of cross-border movement of cash is another tool in the prevention of terrorist financing. Indeed, the use of cash couriers is recognized as one of the main methods used to move illicit funds, launder money and finance terrorism. The Financial Action Task Force on Money-Laundering Special Recommendation IX on cash couriers requires States to have legal, institutional and operational measures in place to detect and prevent the illicit movement of funds and bearer negotiable instruments (i.e., traveller cheques, money orders). Many States have introduced currency control mechanisms. These existing mechanisms should also be geared towards detecting funds and bearer negotiable instruments linked to money-laundering or terrorism financing and towards taking appropriate actions. States should introduce the required legal measures such as seizure of funds wherever there is a suspicion of money-laundering or terrorism financing. Common shortfalls in the monitoring of cross-border movement of cash and bearer negotiable instruments include: inconsistent implementation of the required legal regime; inadequate knowledge of applicable laws and authorities; and inadequate information-sharing between relevant authorities. Over the next two years, the Counter-Terrorism Committee Executive Directorate will organize a series of subregional workshops aimed at helping Member States enhance their response to the illicit movement of funds across borders.

243. Globally, charitable giving is an indispensable financial resource, particularly for many developing States and for States that have suffered major disasters. The annual operating expenditure of the non-profit sector is approximately $1.3 trillion, and the sector employs more than 40 million people worldwide. This sector requires special protection against terrorist financing, since abuse of non-profit organizations can create lasting damage to the organizations themselves and can discourage charitable giving generally. States' implementation of international standards designed specifically to address this issue is currently inadequate, for various reasons, including insufficient awareness, lack of political will, poor capacities and fragmented inter-agency coordination. The Counter-Terrorism Committee Executive Directorate has been able to identify, through its country visits, good practices that effectively protect this sector while respecting fundamental human rights such as

freedom of association, and that entail a proportionate response. The Counter-Terrorism Committee Executive Directorate is also leading a three-year global initiative, on behalf of the Counter-Terrorism Implementation Task Force Working Group on Tackling the Financing of Terrorism and with the support of several donor States and organizations, to develop a common understanding of sound practices to counter terrorist financing through the sector.

244. The Financial Action Task Force on Money-Laundering is currently reviewing its counter-financing of terrorism standards as part of an effort to improve its own evaluation process, respond to new threats and challenges, and support States' effective implementation of the international standards. The Counter-Terrorism Committee Executive Directorate is actively supporting the Task Force in this work.

Recommendations for practical ways to implement the resolution

245. **Member States should:**

(a) **Strengthen their efforts to introduce legal and practical measures aimed at effectively implementing the "freezing" provision of resolution 1373 (2001), taking into account the need to ensure fair treatment;**

(b) **Continue to be alert to the development of the most recent techniques, in order to prevent misuse and to detect cases of terrorism financing through new payment methods; develop appropriate laws and regulations and enhance international cooperation in investigating and prosecuting suspicion of misuse of new payment methods for the purpose of terrorist financing;**

(c) **Adopt practical and proportionate measures to protect the non-profit sector from terrorism financing abuse.**

246. **The Counter-Terrorism Committee and its Executive Directorate should:**

(a) **Continue their efforts to bring together key international, regional and national actors, including representatives of the non-profit sector, to share perspectives and gather tools and good practices to protect the sector against such abuse;**

(b) **Help States to enhance their responses to the illicit movement of funds across borders, by organizing subregional workshops with the support of donor States and organizations;**

(c) **Continue to support the efforts of the Financial Action Task Force on Money-Laundering to improve international counter-financing of terrorism standards, with a view to helping States to effectively implement the counter-financing of terrorism provisions of resolution 1373 (2001).**

C. Law enforcement

247. The effective practical implementation of counter-terrorism policies and procedures requires a well-defined strategy, which is predicated on assessed risks and which seeks to detect, prevent and respond to terrorist activities and to suppress recruitment to terrorism. Such a strategy focuses on how the State's defences against terrorism can be directed to protect critical infrastructures and citizens, and how the

State would respond to a terrorist attack with a view to mitigating the effects of such an incident, assisting victims, and restoring public order. It would also address the investigation of terrorist acts and the pursuit of their perpetrators, aimed at bringing terrorists and their supporters to justice.

248. Implementation of such a strategy requires a strong, well-coordinated domestic security and law enforcement infrastructure comprised of all agencies that are empowered to detect, prevent and investigate terrorist activities. Such agencies might include police, gendarmerie, intelligence agencies, special services, security agencies and even, in some States, military bodies. These agencies must have clear mandates that are grounded in law and that specify their respective counter-terrorism roles. States also need to ensure that their domestic legislation provides these agencies with the necessary authoritative framework, tools and operational manoeuvrability to carry out their mandates and ensure that they are adequately resourced, trained and equipped.

249. In order to ensure that counter-terrorism measures are managed and conducted by appropriate law enforcement agencies, States should create dedicated counter-terrorism units and establish a coordinated national legislative mandate to guide their work. Oversight of law enforcement activities is also necessary in order to ensure that investigations and operations are conducted in compliance with human rights obligations. The Committee has observed that States that have created an overarching body to oversee and direct the operational activities of the various law enforcement agencies mandated to counter terrorism tend to have better inter-agency coordination and to share information more effectively.

250. Coordination and cooperation among law enforcement agencies is essential at all levels. Shared access to specialized tools, such as counter-terrorism-related centralized databases and forensics capacities, is essential for the prevention of terrorism. Police and security services should be authorized to use special investigative techniques — with due regard for human rights — during terrorism-related investigations and in the gathering of evidence for counter-terrorism cases. The timely exchange of threat assessments and operational counter-terrorism information by means of joint task forces or inter-agency "fusion" centres — comprised of representatives of intelligence, police and other relevant law enforcement agencies — has been cited as a good practice in anticipating and disrupting terrorist activity. Joint investigations and coordination between law enforcement and judicial/prosecutorial services are good practices for bringing terrorists to justice.

251. In addition to national coordination, it is essential that States have in place protocols and systems for sharing information regionally and internationally. These might include bilateral or multilateral agreements on facilitating operational cooperation or participation in existing regional and international law enforcement bodies such as ASEANAPOL, Europol and INTERPOL.

252. Most States report certain positive developments in the implementation of practical measures to prevent and counter terrorism, although some have yet to report to the Committee on their efforts in this regard. Most States have developed comprehensive strategies for combating terrorism and have taken steps to ensure that counter-terrorism measures are managed by relevant or dedicated agencies. However, many have only begun to develop dedicated counter-terrorism capacities. A number of States continue to work to institutionalize the requisite capacity and

coordination in their law enforcement systems. The level of inter-agency cooperation and coordination needs to be improved in most States.

253. Although most States have access to INTERPOL information and communications tools, the use of these tools, including the INTERPOL databases, needs to be enhanced, more consistent and widespread, and promulgated beyond the INTERPOL community. In an effort to provide more coordinated assistance, INTERPOL established Special Representative Offices to the United Nations and the European Union, a liaison office in Bangkok, and six regional bureaux. One example of effective cooperation was the establishment of an INTERPOL regional bureau that supports the work of the Committee of Chiefs of Police and States' law enforcement capacities in Central Africa. Many States lack centralized databases and sufficient forensics capacities to engage in complex counter-terrorism investigations. However, information-sharing tools and databases of organizations such as Europol and INTERPOL, available to most States, may assist in this regard. Most States are aware of the need for regional and international cooperation and have created relationships and mechanisms to facilitate early warning and a basic level of information-sharing. Nevertheless, regional and international cooperation in counter-terrorism matters requires further strengthening.

254. As the terrorism threat changes through the adoption of new technologies and capacities for recruitment, financing, and operations, law enforcement agencies must also adopt new practices and enhance their counter-terrorism capacities. Some States have adopted strategies to counter the radicalization of individuals within the framework of recruitment to terrorism, giving greater significance to the role played by law enforcement agencies. Community policing, proactive intelligence work and dialogue programmes are examples of methods being effectively used by some Member States. However, reporting on this subject is limited, and good practices are only just emerging. Terrorists' use of the Internet is another area in which States need to enhance their practical implementation of measures to prevent terrorist recruitment, support and planning.

255. In order to eliminate the supply of weapons to terrorist organizations, States have enacted laws to criminalize a variety of weapons-related offences (including the illicit manufacturing, possession and trafficking in small arms and light weapons, ammunition and explosives) and have established related domestic enforcement programmes. However, there is a general need for States to review their legislative framework to address certain shortcomings and strengthen their implementation of operational measures to effectively control, among other things, the production, sale, brokering and transfer of weapons and explosives, as well as their import and export across borders. Eighty-four States are parties to the Firearms Protocol adopted by the General Assembly on 31 May 2001 and supplementing the United Nations Convention against Transnational Organized Crime, and four more States became parties since the last review. Member States should also take steps to identify and trace illicit small arms and light weapons in a timely and reliable manner. The Programme of Action on Small Arms offers a good tool in this regard.

Recommendations for practical ways to implement the resolution

256. **Member States should:**

(a) Take steps to promote inter-agency coordination and the exchange of counter-terrorism information, both at the national (intracountry) level and regionally/internationally;

(b) Consider establishing dedicated counter-terrorism units, assisted by experts seconded from specialized institutions in areas such as intelligence, criminal law, counter-financing of terrorism and border management, as required;

(c) Continue to enhance cooperation with INTERPOL and increase their use of its resources and databases, such as its international notice system, including "red notices", watch lists, and its Stolen and Lost Travel and Document database.

257. **The Counter-Terrorism Committee and its Executive Directorate should:**

(a) Encourage States to be more thorough and proactive in providing information and updates on the practical application of law enforcement methods and measures, as well as on practitioner capacities in those relevant areas;

(b) Continue to work in close coordination and cooperation with INTERPOL, donor States and organizations in facilitating technical assistance aimed at building the capacities of law enforcement agencies and in the delivery of equipment and facilities to States in need;

(c) Continue to work with States and United Nations entities, in particular the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime, as well as international organizations, in the development and implementation of policies and operational measures to control the production, sale, brokering and transfer of weapons and explosives, including ratification of the Firearms Protocol and the international instruments to enable States to identify and trace, in a timely and reliable manner, illicit small arms and light weapons.

D. Border control

258. Effective border control is key to the effective implementation of counter-terrorism measures pursuant to resolution 1373 (2001), since it is the first line of defence against the movement of terrorists across borders, and the illegal cross-border movement of goods and cargo. Effective border control should also be part of any comprehensive and integrated national counter-terrorism strategy, pursuant to resolution 1963 (2010). Border control requires establishing measures and practices for the proper screening of travellers, refugees, and asylum-seekers, the effective screening and inspection of cargo and travellers' baggage, and the detection and prevention of the smuggling of small arms and light weapons, as well as cash and bearer negotiable instruments. Border control must also address the security of civil aviation and maritime navigation. States should be guided by the standards and recommended practices developed by the relevant specialized international organizations. When properly implemented, these standards and recommended

practices can significantly enhance the capacity of States to secure and control their borders.

259. Resolution 1373 (2001) requires States to prevent the cross-border movement of terrorists and terrorist groups through controls on the issuance of secure and valid identity and travel documents. ICAO has established international standards for machine-readable travel documents to ensure their security against counterfeiting and forgery, and all except nine States complied with the ICAO deadline of April 2010 to begin issuing machine-readable travel documents. Although this represents significant progress, there remain concerns as to the ability of many States consistently to ensure the integrity of "breeder" or supporting documents submitted in support of applications to obtain machine-readable travel documents and to guarantee security in the issuance of identity and travel documents. Concerted efforts are being made by relevant international and regional organizations to promote effective control practices and develop States' capacities in these two key areas.

260. Preventing cross-border terrorist mobility also requires the use of technology and equipment, such as readers and scanners, at border checkpoints to capture traveller data in real time and to verify that data against national and international alert and criminal databases. Although most States have made progress in this area, the lack of capacity and connectivity to relevant databases frequently impedes access to information essential for the clearance of travellers at border crossings. Moreover, border control and immigration personnel could benefit from additional training in identifying fraudulent documents and in dealing appropriately with those who produce them.

261. The resolution also requires States to prevent and suppress the financing of terrorist acts. One method of doing so is to exercise controls on the illicit cross-border movement of cash and bearer negotiable instruments. However, effective detection and prevention at the border are often lacking because of the insufficient application of risk indicators and targeting criteria; the absence of information-sharing and cooperation by officials of customs, law enforcement and immigration departments and financial intelligence units; and a lack of dedicated human and material resources. Guidance material is available to assist with the implementation of effective practices. Notable in this regard are the Financial Action Task Force on Money-Laundering Best Practices Paper on detecting and preventing the illicit cross-border transportation of cash and bearer negotiable instruments and the WCO Enforcement Guidelines on Countering Money-Laundering and Terrorist Financing.

262. The resolution also directs Member States to take the necessary steps to prevent the commission of terrorist acts. In the area of border control, States have made notable progress in three important areas: safeguarding the security of the global trade supply chain, civil aviation and maritime navigation. States continued to enhance the security of the international supply chain by implementing international customs standards and expressing their intention to implement the WCO SAFE Framework of Standards (a total of 164 States have now done so). The SAFE Framework notably establishes standards that provide supply chain security and facilitation at the global level, promote certainty and predictability, enable integrated supply-chain management for all modes of transport, strengthen cooperation among customs administrations to improve their capability to detect high-risk shipments and strengthen customs-to-business cooperation.

263. With respect to the security of civil aviation, most States have ratified the Convention on International Civil Aviation and have implemented, to varying degrees, its annex 17 on Safeguarding International Civil Aviation against Acts of Unlawful Interference, as well as the related security provisions of annex 9. To that end, ICAO performs audits of States' airport and aviation facilities under its Universal Security Audit Programme and prescribes remedial measures, as necessary. During the period under review, ICAO conducted many second-cycle and follow-up USAP missions in many States, and continues to work with States to ensure their full compliance with the relevant standards.

264. With respect to maritime security, there has been general improvement in the implementation of the IMO ISPS Code, which provides a standardized and consistent framework for evaluating risk so that Governments can determine the threat and vulnerability posed to ships and port facilities, assign the appropriate level of security, and implement the corresponding security measures. Since the previous survey, there have been additional ratifications of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and its 2005 Protocol, as well as the 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf and its 2005 Protocol. There has been a recent trend towards increased ratification by small landlocked States and small island States, perhaps because the former wish to establish dual criminality and because the economies of the latter are dependent on shipping, ocean commerce and tourism.

265. There has also been a marked increase in crimes committed at sea, including acts of piracy, and within national waters. This has compelled States to impose more stringent controls in order to protect strategic shipping lanes and preserve international supply chains. It is thought that payments generated from the release of seized ships, cargo and crews may be used to finance terrorist groups or activities. Moreover, there are concerns that seagoing vessels, whether hijacked or otherwise, may be used to commit terrorist acts. In order for States to adequately patrol vast coastlines, they are required to cooperate through the sharing of information and surveillance among their coastguards, navies and customs administrations. An example of such cooperation is the recent establishment of a network of coastguard units to enhance cooperation among law enforcement agencies in West and Central Africa under the aegis of MOWCA, with the assistance of IMO.

266. States continued to enhance controls on the cross-border movement of small arms and light weapons, ammunition and explosives, in accordance with relevant provisions of the Programme of Action on Small Arms, which seeks to control the export, import and transit of small arms and light weapons and prevent their illicit brokering, trafficking and diversion, and establishes programmes for weapons marking, tracing, end-user certification, record-keeping and secure storage. A number of regions have also concluded specific agreements to control the export, import and transit of such weapons.

267. States also continue to implement practical measures to prevent and suppress the movement of terrorists across borders. Two of the three Protocols supplementing the United Nations Convention against Transnational Organized Crime — the Trafficking in Persons Protocol and the Smuggling of Migrants Protocol — are also key instruments in this regard. There have been 11 new accessions to the Trafficking in Persons Protocol, and 8 new accessions to the Smuggling of Migrants Protocol,

since the previous survey. The 1951 Refugee Convention is a valuable tool in determining whether an applicant is eligible for refugee status and offers a basis to screen for possible links with terrorism and other serious criminal activity. There were no additional accessions to the 1951 Refugee Convention during the period under review. United Nations human rights mechanisms continue to raise concerns that the principle of non-refoulement has not been fully respected and that, in some instances, States have removed refugees and others to States where they would be at serious risk of torture or persecution.

268. Shortfalls in practical implementation of border control measures require increased investment in human and physical resources as well as capacity-building. Moreover, the need for cooperation in border management through information-sharing, the pooling of resources, and the use of joint approaches in reinforcing capacities is emphasized in almost all the above subregional assessments. Cooperation and coordination in border controls among contiguous States are especially important in providing effective surveillance and coverage along extensive open and porous borders. In many cases, States lack the necessary resources or are insufficiently active in patrolling, inspection and joint operations with neighbouring States, as well as in implementing community policing at the local levels. The introduction of such measures along open borders and the application of innovative forms of cooperation and assistance in addressing these concerns would help increase the effectiveness of border controls. The Counter-Terrorism Committee Executive Directorate has facilitated workshops on border control management in a number of regions and plans to continue this practice in the future.

Recommendations for practical ways to implement the resolution

269. **Member States should:**

(a) **Implement more active prevention, inspection and detection procedures, relying on risk assessments, the exchange and analysis of intelligence and international cooperation at official border crossings and along open or porous borders;**

(b) **Take steps to ensure the integrity of "breeder" documents and the security of their issuance processes in the production of machine-readable travel documents, and install the equipment needed to read such documents at entry/exit border checkpoints;**

(c) **Increase their connectivity to national and international law enforcement databases and watch lists in order to screen individuals for possible connections to criminal and terrorist organizations at border crossings.**

270. **The Counter-Terrorism Committee and its Executive Directorate should:**

(a) **Continue to promote States' adoption and implementation of international standards and recommended practices for customs, arms control, aviation security and maritime security;**

(b) **Encourage regional cooperation in border management through information-sharing and cooperative efforts and, to the extent possible, more comprehensive controls at open borders, including joint initiatives with neighbouring States;**

(c) **Continue to work with international and regional organizations and States to promote greater access and connectivity among law enforcement agencies to national and international criminal and counter-terrorism databases at entry/exit border checkpoints.**

E. International cooperation

271. An important component of international cooperation in the field of counter-terrorism is the ratification of the 16 international counter-terrorism instruments and their transposition into national laws and practices. Since the previous survey, an additional 65 ratifications have taken place. The 1999 Terrorist Financing Convention now has 173 State parties (4 more than previously). The international instruments related to nuclear material have also seen a notable increase in the number of ratifications since the previous survey: the 1980 Convention on the Physical Protection of Nuclear Material now has 145 States parties (4 more than previously). During the period under consideration, 17 States parties ratified the 2005 Amendment to the Convention on the Physical Protection of Nuclear Material, which has now 45 States parties. The 2005 International Convention for the Suppression of Acts of Nuclear Terrorism now has 77 States parties (23 more than previously). Ratification rates are still low in respect of two instruments: only 19 States have ratified the 2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, and only 15 States have ratified the 2005 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf. A significant majority of Member States have become parties to 10 or more instruments. However, there are regional discrepancies in the level of ratification. In order to make the instruments fully effective, States should adopt domestic legislation that specifically criminalizes the offences set forth in the international counter-terrorism instruments, sets appropriate penalties, and establishes jurisdiction over the defined offences in order to ensure that suspects are either extradited or prosecuted.

272. Effective international cooperation is central to the implementation of resolution 1373 (2001), in which the Council calls upon Member States to cooperate with one another in the exchange of information, mutual legal assistance and extradition requests; and in denying safe haven to terrorists. Most States, in most regions, now have legal and administrative measures in place to grant legal assistance to other States upon request and enable extradition, especially on the basis of reciprocity. However, several States in South America, Western Asia, South Asia and Africa have yet to enact the relevant laws. Many States still need to enact laws allowing them to cooperate in more advanced modes of judicial and administrative cooperation.

273. One area in which many States face challenges is cooperation in mutual legal assistance in criminal matters. Even where there is a legal basis for cooperation in counter-terrorism-related matters among States, achieving practical cooperation continues to be a challenge. The reasons are both technical and political in nature.

274. Some regions have developed effective and advanced regional instruments and mechanisms for facilitating mutual legal assistance. Western Europe has developed an advanced information-exchange system through the use of tools such as joint investigation teams between States. Eurojust, the judicial cooperation organization

of the European Union, is one example of an advanced judicial cooperation network. However, others have been or are being developed elsewhere in the world such as the Ibero-American Legal Assistance Network, the Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition of OAS, the Commonwealth Network of Contact Persons, and judicial regional platforms for cooperation in the Indian Ocean region and in the Sahel. The development of those mechanisms varies considerably from one region to another, and no judicial cooperation network has been established for the rest of Africa or Asia. Regional organizations also contribute greatly to improving judicial cooperation among their member States by adopting regional instruments on mutual legal assistance and extradition. Among other examples, the Council of Europe has adopted a European convention on mutual legal assistance,[2] ASEAN has a treaty on mutual legal assistance[3] to which nine States are party, and CIS is a party to the Minsk Convention,[4] which affords mutual legal assistance and extradition. In East Africa, IGAD has adopted a convention on extradition and mutual legal assistance. In 2008, the Rabat Declaration was adopted at the Fifth Conference of Ministers of Justice of the French-speaking African Countries on the implementation of the international counter-terrorism instruments, which includes a Convention on Extradition and Mutual Legal Assistance in counter-terrorism that has been signed by 17 Member States and ratified by 1 State so far.

275. Extradition of terrorists also continues to face many obstacles and is neither smooth nor simple. Procedures are cumbersome, slow and resource-consuming. States continue to rely too heavily on grounds of refusal (such as the "political offense" exception) to refuse surrender. The European arrest warrant of the European Union provides an effective alternative to traditional extradition, allowing for direct contact and empowering the judicial authorities. However, many other parts of the world still rely on a process that requires intervention by the executive and the judiciary. Additional challenges are presented due to the need to respect relevant human rights obligations.

276. In 2009, the Committee and its Executive Directorate briefed Member States on the practical and legal obstacles to effective extradition of accused terrorists. This led to the adoption by the Committee of Policy Guidance on International Cooperation (S/AC.40/2010/PG.3), which identified a set of actions for its future work in this field.

277. There are many bodies engaged in cooperation through non-judicial international or regional organizations, including Europol and the customs information system of the Schengen Information System. A number of States are also members of the Egmont Group, which facilitates the exchange of information among financial intelligence units. Many States have developed, with bilateral and multilateral partners, some form of early warning arrangement to help predict and prevent terrorist attacks. Some arrangements include the sharing of intelligence about imminent attacks. Others involve regular exchanges of operational information to facilitate the prevention of terrorist activity and mobility. Some go

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[2] Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, 2000.

[3] Treaty on Mutual Legal Assistance in Criminal Matters, 2004.

[4] Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters, 1994.

further to include the sharing of resources to identify potential threats and to respond to acts of terrorism.

278. The Committee actively cooperates with regional organizations and with other players engaged in this area in order to strengthen the capacity of Member States to cooperate with one another. Development of modern tools, best practices, instruments, and mechanisms could help regions and subregions to enhance international cooperation. The sharing of experiences among regions and subregions might also be beneficial. At the practical level, some States face significant challenges with respect to effective cooperation in criminal matters. Some visited States still lack the basic tools for cooperation, including in the areas of human resources and technical equipment. A number of visited States face difficulties in cooperating owing to a lack of training and technical skills.

Recommendations for practical ways to implement the resolution

279. **Member States should:**

(a) **Engage more actively, and as a matter of priority, in mutual legal assistance and extradition in terrorism cases, by utilizing the instruments to which they are party, furthering bilateral cooperation, updating domestic legislation, and becoming parties to additional regional and international treaties on mutual legal assistance and extradition;**

(b) **Take steps to provide the widest possible range of assistance in terrorism cases to other States and to build bridges between different legal systems;**

(c) **Enhance expeditious information-exchange and improved cooperation among competent authorities by participating in relevant regional cooperation networks.**

280. **The Counter-Terrorism Committee and its Executive Directorate should:**

(a) **Continue to remind Member States of their obligation to extradite or prosecute in accordance with the applicable international counter-terrorism instruments to which they are parties and to remind States of their obligation to ensure that claims of political motivation are not regarded as grounds for refusing requests for the extradition of alleged terrorists;**

(b) **Work with States and the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime to promote best practices and facilitate capacity-building and training for members of the judiciary, law enforcement agencies and other relevant civil servants in procedures for requesting and providing assistance in criminal investigations, mutual legal assistance and extradition matters;**

(c) **Continue to work with international, regional and subregional organizations, in particular with the Terrorism Prevention Branch, on effectively implementing modern tools, best practices, instruments and mechanisms for cooperation, including the creation of networks in regions where there is no existing regional mechanism.**

F. Human rights

281. The Security Council, in its resolution 1963 (2010), reaffirms that States must ensure that any measures taken to counter terrorism comply with all their obligations under international law, in particular international human rights, refugee, and humanitarian law. The Council also stresses that all human rights issues relevant to the implementation of the resolution should be addressed consistently and even-handedly. In many States, the question of how to effectively counter terrorism while complying with human rights obligations has continued to be the subject of debate and, in some cases, controversy. This is not necessarily a matter of concern, since counter-terrorism poses special challenges and may require innovative responses that deserve public scrutiny. Nonetheless, while it is true that human rights law affords some flexibility in addressing security challenges, States must respect certain core principles in all circumstances, including the principles of necessity, proportionality, legality and non-discrimination. States are also obliged at all times to respect rights that are non-derogable under international law or that have attained the status of jus cogens, such as the right of all persons to be free from torture and the prohibition against enforced disappearances.

282. Some States have heeded the calls of the Security Council and other international and regional bodies concerning human rights and counter-terrorism and have taken steps in response, such as reviewing the compliance of their legal framework with human rights obligations, strengthening training and awareness-raising initiatives, and creating oversight mechanisms to help to ensure respect for human rights in the practices of law enforcement and intelligence bodies. Many States have also moved to strengthen the role and effectiveness of their judiciaries, which are central to guaranteeing a rule-of-law-based response to the terrorism threat. Other measures, such as considering the ratification of additional international human rights instruments, adopting community-policing models, and involving communities in the development of appropriate policies, can form part of a comprehensive counter-terrorism strategy with human rights at its core.

283. Despite these positive signs, serious human rights concerns in the counter-terrorism context persist in all parts of the world. An issue that has recently drawn attention is the application of states of emergency or other states of exception in some States, purportedly on the basis of the terrorism threat. For States that are party to the International Covenant on Civil and Political Rights or relevant regional instruments, the application of emergency measures is subject to strict requirements and may in no case infringe on non-derogable rights, such as those set out in article 4 of the Covenant. In its dialogue with States that have imposed emergency measures, the Counter-Terrorism Committee has referred to concerns expressed by international mechanisms and raised issues such as whether the measures were lawfully imposed, are strictly necessary and proportional, and comply with other legal obligations. It is significant that some States have recently begun to review or have terminated states of emergency.

284. Some States have proposed or enacted special measures that depart from standard criminal or administrative procedures because of the unusual challenges posed by terrorism investigations and prosecutions. Such measures sometimes occur in the context of preventive action when terrorist acts are allegedly still at the preparatory stage. Some States, for example, have either extended permissible periods of investigative or pretrial detention or imposed limits on access to counsel.

Clearly, particular challenges arise when dealing with terrorism cases, and additional measures may be warranted. However, United Nations mechanisms have expressed concern that such provisions may not comply with States' international human rights obligations. In the case of special investigative techniques, for example, concerns have been expressed that such techniques are not always subject to adequate limits and judicial oversight and may infringe on the right to privacy. Respect for the right to fair trial has also been a subject of attention, especially in cases involving use of intelligence information or evidence claimed to be linked to State security. Serious concerns have also been raised over the use of preventive or administrative detention, as well as control orders, all of which involve restrictions on the right to liberty without criminal conviction.

285. In some States, vague or overly broad definitions of terrorist offences continue to pose a challenge to effective implementation of resolution 1373 (2001). Terrorism-related accusations or criminal charges have reportedly been directed at times against persons for acts that are protected by international human rights law, such as the exercise of freedom of expression, conscience and assembly. United Nations mechanisms, regional courts and other bodies have also raised questions over terrorist designations, asset-freezing and other measures said to have been taken on unclear or unfair legal grounds, in some cases without adequate and effective remedies. The challenge of defining terrorist acts, including ancillary offences, precisely so as not to offend the principle of legality or infringe on human rights has remained a subject of discussion between the Committee and some States.

286. Counter-terrorism measures in some States take place in the context of armed conflict, raising questions of compliance with international humanitarian law. The use of deadly force in such situations must respect the principles of distinction and proportionality, and violations should be subject to accountability. It has been alleged that in some States military forces have committed summary or extrajudicial killings, in violation of the laws of war and human rights law. Some States continue to use military tribunals to try terrorism cases, which has also raised human rights concerns.

287. In its resolution 1963 (2010) the Security Council reminds States that effective counter-terrorism measures and respect for human rights are complementary and mutually reinforcing and are an essential part of a successful counter-terrorism effort. It also notes the importance, to effective counter-terrorism, of respect for the rule of law. Thus, it remains relevant for the Committee to address these issues in its dialogue with States on the effective implementation of resolution 1373 (2001). In its resolution 1963 (2010), the Council also recalls the need to address the conditions conducive to the spread of terrorism, as outlined in Pillar I of the United Nations Global Counter-Terrorism Strategy (General Assembly resolution 60/288), including the need to promote the rule of law, the protection of human rights and fundamental freedoms, good governance, tolerance and inclusiveness. In Security Council resolution 1624 (2005), which focuses on the threat posed by incitement to commit terrorist acts, the Council stresses that States must ensure that any measures taken to implement the resolution comply with all of their obligations under international law, including international human rights law.

288. One way in which States might wish to take all these issues more fully into account is to incorporate them into comprehensive and integrated national counter-terrorism strategies that include attention to the factors that lead to terrorist

activities. In resolution 1963 (2010), the Council encourages the Counter-Terrorism Committee Executive Directorate to arrange meetings with Member States in various formats, with their consent, including for the purpose of considering advising on such strategies. The Council also proposes interaction, as appropriate, with civil society and other relevant non-governmental actors, in the context of efforts to monitor the implementation of resolution 1373 (2001). These recommendations will continue to guide the Committee in its future dialogue with States.

Recommendations for practical ways to implement the resolution

289. **Member States should:**

(a) **Continue to ensure that any measures taken to counter terrorism comply with all their obligations under international law, in particular international human rights, refugee and humanitarian law;**

(b) **Consider developing comprehensive and integrated national counter-terrorism strategies that include plans for improving compliance with international human rights obligations, involving the relevant Government authorities and other entities, such as the private sector, national human rights institutions, civil society and the media, as appropriate;**

(c) **Strive to ensure that human rights training is incorporated as appropriate into professional development and awareness-raising programmes for all officials involved in the implementation of counter-terrorism measures at all stages, including prevention, investigation, detention and prosecution.**

290. **The Counter-Terrorism Committee and its Executive Directorate should:**

(a) **Continue to take account of relevant human rights concerns in their assessment of States' implementation of resolution 1373 (2001) and include discussion of such concerns in their dialogue with States;**

(b) **Continue to identify States' needs in relation to enhancing institutions and strengthening the rule of law, and incorporate human rights and rule of law in a proactive manner into their technical assistance recommendations to States with a view to strengthening national systems for bringing terrorists to justice and improving international cooperation;**

(c) **Incorporate human rights more effectively into their communications strategies in order to dispel the misconception that human rights are not taken into account in the Committee's work.**

Annex

Key counter-terrorism instruments

Convention on Offences and Certain Other Acts Committed On Board Aircraft, 1963

Convention for the Suppression of Unlawful Seizure of Aircraft (1970)

Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1971 (replaced by the Convention on the Suppression of Unlawful Acts Relating to Civil Aviation, 2010)

Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, 1973

International Convention against the Taking of Hostages, 1979

Convention on the Physical Protection of Nuclear Material, 1980

Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, 1988 (replaced by the Convention on the Suppression of Unlawful Acts Relating to Civil Aviation, 2010)

Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988

Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 1988

Convention on the Marking of Plastic Explosives for the Purpose of Detection, 1991

International Convention for the Suppression of Terrorist Bombings, 1997

International Convention for the Suppression of the Financing of Terrorism, 1999

International Convention for the Suppression of Acts of Nuclear Terrorism, 2005

Amendment to the Convention on the Physical Protection of Nuclear Material, 2005

2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation

2005 Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf

United Nations Global Counter-Terrorism Strategy (General Assembly resolution 60/288)

Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (2001)

Convention on International Civil Aviation, 1944 (Chicago Convention) (notably, annex 17 and related security provisions of annex 9)

International Convention for the Safety of Life at Sea (SOLAS), 1974 (as amended in 2002), and its 2005 Protocol

Convention relating to the Status of Refugees 1951, and its 1967 Protocol

United Nations Convention against Transnational Organized Crime, 2000

- Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, 2001
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000
- Protocol against the Smuggling of Migrants by Land, Sea and Air, 2000

Framework of Standards to Secure and Facilitate Global Trade

Enforcement Guidelines on Countering Money-Laundering and Terrorist Financing

Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures, 1999